

1 STATE OF ILLINOIS )  
2 ) SS.  
3 COUNTY OF COOK )  
4 IN THE UNITED STATES DISTRICT COURT  
5 FOR THE NORTHERN DISTRICT OF ILLINOIS  
6 EASTERN DIVISION  
7  
8 ARMANDO ARIAS, )  
9 Plaintiff, )  
10 vs. ) No. 1:17-ev-08897  
11 CITGO PETROLEUM CORPORATION, )  
12 et al., )  
13 Defendant. )

14  
15 The deposition of JAMES TANCREDI, called for  
16 examination, taken pursuant to the provisions of the  
17 Code of Civil Procedure and the Rules of the Supreme  
18 Court of the State of Illinois pertaining to the taking  
19 of depositions for the purpose of discovery, taken  
20 before Howard N. Reisman, CSR No. 084-000411, a  
21 Certified Shorthand Reporter of said state, at 8401  
22 Crawford Avenue, Suite 104, Skokie, Illinois, 60076, on  
23 July 26, 2018, at 10:30 a.m.

24

1 APPEARANCES:

2

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1 (Whereupon the Witness was duly sworn.)

2 JAMES TANCREDI,  
3 called as a Witness herein, having been first duly sworn  
4 on oath, was examined upon oral interrogatories and  
5 testified as follows:

6 EXAMINATION

7 BY

8 MR. FRADIN

9 Q Good morning.

10 A Good morning.

11 Q Can you state your name for the record.

12 A James Tancredi, T-a-n-c-r-e-d-i.

13 COURT REPORTER: It's an opera by Rossini.

14 THE WITNESS: Yep. Who also wrote the William  
15 Tell Overture.

16 BY MR. FRADIN:

17 Q Have you ever sat for a deposition before,  
18 James?

19 A Yes.

20 Q When?

21 A Several times. Most recent may have been two  
22 years ago.

23 Q In what capacity have you sat for depositions?

24 A I gave testimony at National Labor Board

1 hearing for a dispute with a local labor union. Also  
2 testified at an OSHA citation case that we were  
3 contesting, and then a couple of injury cases for  
4 contractor injuries in the facility over the years.

5 Q Okay, have you ever sat for a deposition  
6 outside your capacity as an employee of Citgo?

7 A No.

8 Q Okay. The OSHA citation case that you  
9 mentioned, tell me a little bit about that?

10 A That was a case that OSHA gave us a citation  
11 regarding one of our procedures, our lockout/tagout  
12 procedure that we disagreed with the citation so we  
13 disputed it. So, it went all the way through the  
14 hearing process.

15 Q Was there a court reporter at the hearing?

16 A Yes.

17 Q Where was the hearing?

18 A Chicago.

19 Q Where in Chicago?

20 A I don't remember what building. It was  
21 downtown.

22 Q Was it at a OSHA building, do you know?

23 A No, I don't think it was an OSHA building, it  
24 was -- it was one of the buildings near the Dirksen

1 Federal Building but it wasn't the Dirksen Federal  
2 Building. I don't know where it was.

3 Q And you sat for a deposition in that case as  
4 well?

5 A Yeah.

6 Q Where was the deposition held?

7 A The deposition may have been in the OSHA  
8 offices.

9 Q Do you remember who took the deposition?

10 A I don't remember her last name. Elizabeth  
11 something. I just don't remember.

12 Q Do you remember -- did you have an attorney  
13 there for the deposition?

14 A Yes, Nina Stillman was the outside attorney.  
15 I do not think that I had any Citgo employed attorney  
16 there.

17 Q Okay. What was the nature of your testimony?

18 A I was one of the individuals that, I was in  
19 the same capacity that I am now as Manager of Health,  
20 Safety, Security, and Environmental and I was also very  
21 familiar with the incident investigation that OSHA came  
22 in to investigate and give the citation on so --

23 Q Okay. Well, tell me about the citation a  
24 little bit then, please?

1           A     OSHA had a citation that indicated that our  
2     lockout/tagout program was missing one specific  
3     component per their standard. We disagreed that it was  
4     missing that so --

5           Q     What was the outcome of the hearing?

6           A     There citation was upheld.

7           Q     What year was this?

8           A     The citation was probably 2013, so I think  
9     that hearing probably occurred in 2014, just by  
10    logistics but --

11          Q     Tell me what lockout/tagout program is?

12          A     It's the program used to isolate equipment  
13    that was in service when you're taking it out of service  
14    to perform maintenance or some type of activity that  
15    requires it to be off-line and hydrocarbon free.

16          Q     Do you remember what piece of equipment the  
17    citation was related to?

18          A     They didn't make the citation specific to a  
19    piece of equipment. They rather made the citation  
20    specific to you have a procedure that says how you do  
21    this, how you perform this work, so we think your  
22    procedure is not sufficient versus saying for one piece  
23    of equipment.

24                   COURT REPORTER: You say sufficient versus

1 what?

2 THE WITNESS: Versus pointing to one specific  
3 piece of equipment.

4 BY MR. FRADIN:

5 Q Do you have any documentation in connection  
6 with this citation?

7 A We probably have the citation but I don't have  
8 it with me. I'm sure somebody has it.

9 Q Who would have it.

10 A We'd have it in legal, be probably, Casey  
11 Bullock probably has it. Ernie Boutte probably has it.

12 Q When you say the citation was upheld, what  
13 does that mean?

14 A That means that the -- I'm not sure who the  
15 OSHA Judge is, ended up in the end agreeing that, with  
16 the citation, that we needed to do something different  
17 to enhance our lockout/tagout program per the OSHA  
18 citation.

19 Q Do you remember what the resolution was to  
20 that?

21 A Yes. It was simply providing a place on our  
22 existing documentation for the operating personnel that  
23 perform the verification that the equipment was isolated  
24 to perform a written signature document validation that



1 they verified that the isolation was successful and the  
2 energy was isolated.

3 Q All right. Are you -- tell me first off, you  
4 mentioned it before, but if you can tell me again, what  
5 is your position there, how long have you held it?

6 A I'm the Manager of Health, Safety, Security,  
7 and Environmental Protection and I've had that since  
8 2012.

9 Q And describe that position for me?

10 A It's the division manager responsible for the  
11 functions that perform safety support in the field,  
12 emergency response, fire department, the security  
13 function of the refinery, the security guards of the  
14 facility, the environmental technical media experts that  
15 support compliance with the emissions permits. I'm  
16 trying to think if I missed anything. PSM program.  
17 Okay, that's probably the primary.

18 Q What was your position prior to being Manager  
19 of Health, Safety, and Security?

20 A I'm the General Manager of Operations and  
21 Maintenance.

22 Q And what years were you General Manager of  
23 Maintenance and Operations?

24 A From 2008 to 2012.

1           Q     And in your position as Manager of Health,  
2     Safety, and Security, is Casey Bullock directly -- does  
3     he directly report to you?

4           A     Yes.

5           Q     And since when did Casey Bullock directly  
6     report to you?

7           A     Since the day I moved into that position in  
8     2008.

9           Q     Okay. And he still does that?

10          A     And he still does.

11          Q     Okay. And does -- did the Plaintiff, Dino  
12     Arias, report to Casey Bullock?

13          A     Yes.

14          Q     Did the Plaintiff, Dino Arias, report to you  
15     as well?

16          A     He reports to Casey who reports to me. So he  
17     was not a direct report.

18          Q     Okay. Do you know what this lawsuit is about?

19          A     In general.

20          Q     Can you tell me what it's about?

21          A     My understanding is that Dino's claiming he's  
22     inappropriate loss of employment so I don't know what  
23     all the terms are.

24          Q     Okay. Have you reviewed any documents related

1 to this litigation?

2 A Yes.

3 Q What did you review?

4 A I reviewed, you know, I got this deposition  
5 letter that I needed to report to deposition. I looked  
6 over some things from a request from the Chemical Safety  
7 Board a few years ago that were referenced. Didn't look  
8 a lot. I looked through my e-mail to see if I had any  
9 documentation related to past communication. Looked at  
10 a incident investigation that was one of the things that  
11 we supplied the Chemical Safety Board on a request from  
12 a few years ago because I was aware that there was a  
13 request for that information. Not at lot -- not a lot  
14 of information, though.

15 Q Did you look over the complaint at all?

16 A I looked at the complaint.

17 Q Okay. Is there -- do you have any -- are any  
18 parts of the complaint that you disagree with?

19 A I'd have to look at the complaint to see. I  
20 can't recall.

21 Q So when did you review the complaint?

22 A It had to be months ago, months to weeks ago.

23 Q Okay. And nothing stuck out as something you  
24 remember disagreeing with?

1           A     I don't remember the content of the complaint  
2     so whether I agree or disagree, I don't know, it just --

3           Q     Okay.

4           A     It wasn't -- I just don't recall the detail of  
5     the complaint.

6           Q     Okay. Did you review any discovery responses?

7           A     The items I mentioned on the Chemical Safety  
8     Board, that was a request that came to me to say do who  
9     have some information on that so that's why I ended up  
10    reviewing that.

11          Q     What did you search in your e-mail for?

12          A     I did that. I did a specific search for  
13    Chemical Safety Board.

14          Q     Why did you search Chemical Safety Board.

15          A     Because somebody --

16                MR. GRAY: Well, I'm going to object. So,  
17    just -- you can answer any of these questions as long as  
18    it doesn't implicate any communications that you and any  
19    lawyers for Citgo, either inside or outside. So if you  
20    can answer Mr. Fradin's question, that's fine but if it  
21    requires attorney/client communications, I'll direct you  
22    not to answer but I'm not sure if you can answer that  
23    one without divulging.

24                THE WITNESS: Okay. That one just -- it was

1 specifically requested will you ever get us such a request  
2 from the Chemical Safety Board that would have happened  
3 a couple years ago so that's what I look for.

4 COURT REPORTER: That's when I would what?

5 MR. GRAY: He said that's what I look --

6 THE WITNESS: That's what I looked for.

7 BY MR. FRADIN:

8 Q Do you know why the Chemical Safety Board is  
9 relevant to this particular lawsuit?

10 MR. GRAY: Objection, form.

11 THE WITNESS: There was a request made, I know  
12 that so --

13 BY MR. FRADIN:

14 Q Okay. Have you had any communications with  
15 the Chemical Safety Board?

16 A Nothing direct.

17 Q If you were to communicate with the Chemical  
18 Safety Board indirectly, how does that look?

19 MR. GRAY: Objection to form.

20 THE WITNESS: Yeah, I guess --

21 MR. FRADIN: Well, let me rephrase that.

22 BY MR. FRADIN:

23 Q What do you mean by not directly?

24 A For example, the request came directly to our

1 process safety management coordinator and then he and I  
2 provided the data for the request but then the data went  
3 to our attorney to respond to the Chemical Safety Board  
4 request so --

5 Q And start at the beginning. Who was the first  
6 person in this chain of --

7 A Our Process Safety Management Coordinator.

8 Q And who is that?

9 A Ray Boutte.

10 Q Okay.

11 COURT REPORTER: How do you spell Boutte?

12 THE WITNESS: B-o-u-t-t-e.

13 BY MR. FRADIN:

14 Q So you are aware of requests from the Chemical  
15 Safety Board to Ray Boutte?

16 A Yes.

17 Q What is the nature of those requests?

18 A They were requesting information throughout  
19 industry on their target, as I recall, was several  
20 hundred incidents of various types that had happened and  
21 they were asking locations to provide them with  
22 information related to that incident investigation  
23 reports so that they could look at them.

24 Q What were the incidents that they wanted to

1 look at at Citgo?

2 A Ours, they wanted to look at two. One I  
3 remember specifically was a follow-up from a vacuum unit  
4 fire from October of 2013. The other one ended up not  
5 being an incident. It was flaring event but they had  
6 seen somewhere that there was S02 emissions related to  
7 it so they had asked for info on it and what we gave  
8 back to them was explaining that that wasn't really an  
9 incident, it was a flaring event.

10 Q When would the S02 emission flaring event had  
11 been?

12 A I don't know. I would have to look at the  
13 request to see.

14 Q Do you know about?

15 A No, no.

16 Q All right. Tell me about the fire in October  
17 2013?

18 A Do you have any more specific question than  
19 that?

20 Q Yeah, tell me what happened in October 2013,  
21 you said there was a vacuum unit fire?

22 A There was a issue -- a leaking valve when they  
23 were isolating a pump for maintenance and their valve  
24 leaked, vacuum tower bottoms product and eventually

1 found an ignition source and started a fire in the area  
2 of the vacuum tower.

3 Q What was the outcome from the fire?

4 A Damage to the equipment, piping in the pump  
5 system underneath the vacuum tower and in the general  
6 geographic area.

7 Q Okay.

8 A No injuries.

9 Q Are you familiar with a fire that occurred at  
10 the plant in 1984?

11 A I know that there was a fire -- there was a  
12 fire in 1984. I believe it was a Unical facility at  
13 that time.

14 Q What do you know about the fire that occurred  
15 in 1984?

16 A It was a large fire on their upset gas plant.

17 Q Do you know about fatalities in the fire?

18 A There were a lot of fatalities.

19 Q How many?

20 A Seventeen, I think.

21 Q Are you aware that Dino was working at the  
22 plant at the time?

23 A No.

24 Q You didn't know that?



1           A     No. He may have been. I didn't know Dino  
2 back then.

3           Q     When did you meet Dino?

4           A     Probably 90's. I don't know exactly when but  
5 I was in engineering and maintenance for my first  
6 several years so --

7           Q     Well, we talked about the Chemical Safety  
8 Board earlier a little bit, correct?

9           A     Correct, we mentioned them.

10          Q     Yeah, are you aware of communications between  
11 Dino and the Chemical Safety Board?

12          A     I saw one e-mail at one time where Dino had,  
13 was conversing or exchanging with a request from the  
14 Chemical Safety Board.

15          Q     When did you review that e-mail?

16          A     I don't know the timing of that. I recall  
17 Casey Bullock first mentioned it to me and so I asked  
18 him do you have any detail? Couldn't tell if it was a  
19 formal or informal request but it was for something that  
20 had happened at Unical. So I asked him if he could give  
21 me anymore info and he provided, forwarded an e-mail  
22 that, exchange between Dino and somebody at the Chemical  
23 Safety Board.

24          Q     What did Casey tell you?

1           A     He told me that Dino -- Dino had gotten a  
2     request or I can't remember exactly what it was but  
3     somehow from the Chemical Safety Board they were  
4     requesting information about the Unical 1984 gas plant  
5     fire.

6           Q     And what was the nature of your conversation  
7     with Casey, was it e-mail or was it --

8           A     He came and saw me and then I asked him he had  
9     any, you know, additional information and he forwarded  
10    an e-mail after that.

11          Q     Okay. Where did he come to see you?

12          A     In my office.

13          Q     Okay. And what was -- what else was said  
14    during that conversation?

15          A     You know, pretty much, first it's find out  
16    what kind of request is this? Did he just talking to  
17    somebody or is it a formal request and then since it was  
18    a request for another company, basically for Unical, I  
19    said once we get the request we'll send it to legal,  
20    which is what we did.

21          Q     When you say is he just talking to somebody,  
22    what do you mean by that?

23          A     Well, a lot of people have contacts in the  
24    industry. We see people at AFPM sessions or API

1 sessions so he was trying to find out, it's just, you  
2 know, somebody he knows asking a question and says, hey,  
3 I'd be interested in learning more about that. Can I  
4 get info or was it a formal request that came from, you  
5 know, somebody representing the Chemical Safety Board  
6 saying I'm looking for this information for this  
7 specific reason.

8 Q Okay. Did you guys discuss Dino any more  
9 during that conversation?

10 A No, just that that was the source where Casey  
11 had heard the request from.

12 Q Okay. And did you know if Dino had a  
13 relationship with anybody at the Chemical Safety Board?

14 A No, I didn't. All I knew was that Dino had  
15 somehow -- the request that Casey was talking about had  
16 some outcome through Dino.

17 Q Okay. At that point you weren't sure if it  
18 was a formal request or not?

19 A Yeah.

20 Q When about was that conversation?

21 A Oh boy, I couldn't tell you. I'd have to look  
22 and see.

23 Q What was Casey's attitude about Dino talking  
24 with the Chemical Safety Board?

1           A     It was just pretty matter-of-fact. His  
2     discussion with me was more do we -- was kind of a  
3     question of do we even know where something like this is  
4     and then, since it's Unical, can we share anything, even  
5     if we find it?

6           Q     All right.

7           A     So that was kind of --

8           Q     Were you reluctant to share information about  
9     the fire?

10          A     Well, not reluctant, just not knowing if I had  
11     the information even or if I could share it since it was  
12     another company and that's why when Casey did give me  
13     the information, I sent it to our attorney and said --

14                MR. GRAY: Well, hold it. That wasn't his  
15     question. I don't mean to interrupt you but you're not  
16     permitted to talk about any communications with your  
17     attorney. So he was just asking about your  
18     communications with Casey. Let's sort of leave it at  
19     that.

20                THE WITNESS: Okay.

21     BY MR. FRADIN:

22          Q     Okay. So did Casey tell you that the Chemical  
23     Safety Board wanted to investigate the 1984 fire?

24          A     No.

1           Q     What did he tell you that they wanted to  
2 investigate?

3           A     They didn't --

4                   MR. GRAY:  Objection, form, misstates his  
5 testimony.

6                   THE WITNESS:  They didn't want to investigate.  
7 They had asked for information related to that '84 fire.

8 BY MR. FRADIN:

9           Q     Did they ask -- according to Casey during that  
10 conversation, did the Chemical Safety Board ask for  
11 anything else?

12          A     Not that I'm aware of.

13          Q     Okay.  So then when was the next communication  
14 you had with anybody about that request from the  
15 Chemical Safety Board?

16          A     Casey forwarded me some -- he went back and  
17 then shortly thereafter he forwarded me an e-mail.

18          Q     Do you remember who the e-mail was from?

19          A     It was Dino was on it and I don't -- I can't  
20 remember exactly who the Chemical Safety Board rep was.

21          Q     But there was a Chemical Safety Board rep also  
22 on the e-mail?

23          A     It -- as I recall the e-mail -- it was like an  
24 e-mail from the Chemical Safety Board to Dino asking him

1 for something that they had talked about related to the  
2 '84 fire.

3 Q When you said that they had talked about, who  
4 had talked about?

5 A The e-mail kind of referenced that Dino and  
6 whoever this individual from the Chemical Safety Board  
7 had talked and the Chemical Safety Board individual was  
8 kind of reminding him, hey, we talked, can you get me  
9 this information?

10 Q Okay. So when you referred to the they,  
11 that's Dino and this individual from Chemical Safety  
12 Board?

13 A Correct?

14 Q And that e-mail was from Casey Bullock,  
15 correct?

16 A Yeah, Casey forwarded that e-mail to me, I  
17 believe after Dino had forwarded it to Casey.

18 Q Did Casey say anything in that e-mail?

19 A Just basically, you know, probably a sentence  
20 or two that said, hey, here's the thing we were talking  
21 about.

22 Q Okay. All right. I'll ask you a little bit  
23 more about your background, personally. Have you ever  
24 been arrested?

1           A     No.

2           Q     Have you ever had to hire an attorney for  
3 anything?

4           A     For once on a speeding ticket. I couldn't  
5 remember.

6           Q     Are you married?

7           A     Yep.

8           Q     How many years?

9           A     1984, how many is that? Thirty-four, thirty-  
10 three-and-a-half.

11          Q     Where do you live?

12          A     Naperville.

13          Q     What's your address?

14          A     112 North Columbia, keeping in mind that any  
15 communications with witness need to be through counsel,  
16 so I'm not sure of the purpose of that question, but  
17 please be advised as such.

18          Q     Sure. And what's the zip in?

19          A     60540.

20          Q     All right. Casey Bullock reports to you --  
21 you indicated, correct?

22          A     Correct.

23          Q     Do you remember any communications from Casey  
24 Bullock regarding the Plaintiff, Dino Arias?

1           A     Specific to --

2           Q     Specific to anything?

3           A     Yeah, I'm sure I had. He was an employee of  
4 Casey's, so yeah, I'm sure I had -- I'm just recalling  
5 -- trying to recall exactly what kind of communications  
6 I would have had. A lot of communications with him  
7 toward the end of Dino's employment related to his  
8 incidents that he had. His behavioral incidents.

9           Q     Couldn't hear.

10          A     His behavioral incidents that he had.

11          Q     How were those communications made?

12          A     Verbal.

13          Q     These were discussions?

14          A     Yeah.

15          Q     Over the phone?

16          A     No, probably in-person that I recall. Our  
17 offices are, you know, 40 steps from each other.

18          Q     What was the nature of the conversations?

19          A     He was kind of updating me on where the  
20 investigation status was related to the incidents.

21          Q     What are the incidents?

22          A     There's an incident where after our worse-case  
23 discharge drill there was a post-drill event with  
24 company personnel and people that supported emergency



1 response from the drill in Chicago where Dino had  
2 behaved inappropriately.

3 Q When was this?

4 A 2014.

5 Q Where was this drill?

6 A The drill was local. I can't remember if it  
7 was -- there's a hotel in Romeoville, I believe, but the  
8 event was at Navy Pier in Chicago.

9 Q Do you know what day of the week it was?

10 A No.

11 Q Was Dino required to be there?

12 A Dino was a participant in the drill.

13 Q Was he required to be there?

14 A Yeah.

15 Q Who required him to be there?

16 A Be required by the position that he holds in  
17 the emergency response organization so the drill was a  
18 worse-case discharge drill that deals with how would you  
19 respond to a worse-case discharge and people, by their  
20 position, have different roles in the emergency  
21 response. So anybody that had a role in our normal  
22 emergency response organization was required to be at  
23 the drill.

24 Q Do you know what day of the week it was?

1           A     No. It was a weekday but I don't know what  
2 day of the week it was.

3           Q     Do you know what time it was?

4           A     The drill occurred during the day, normal  
5 business hours, and then the event at Navy Pier was  
6 immediately following the drill.

7           Q     Okay. And what was the incident that you  
8 speak of at the event?

9           A     The reports and the findings of the  
10 investigation where Dino was drunk, loud, obnoxious,  
11 insulting to other employees.

12          Q     Who was at this event?

13          A     I don't know everybody that was at the event.  
14 Brian Rimbo, I remember was at the event.

15                COURT REPORTER: Say it again?

16                THE WITNESS: Brian R-i-m-b-o, who was the  
17 Fire Chief at the time. Joan Bingham I know was at the  
18 event because one of the lewd insults that Dino made was  
19 to Joan Bingham. Robert Grachan was at the event. I  
20 was a member of our emergency response team. I don't  
21 remember if Casey was there.

22          Q     Was there alcohol at the event?

23          A     There was alcohol somewhere. I'm not sure  
24 exactly what stayed at the event.

1           Q     Is it typical that -- for Citgo to have events  
2 where there's alcohol served?

3           A     Yes, there are some.

4           COURT REPORTER: I'm sorry --

5           MR. GRAY: Can you repeat that?

6           THE WITNESS: Oh, the --

7           MR. GRAY: The court reporter didn't hear you.  
8 When you do that, he's having trouble hearing you and I  
9 just want to make sure that he gets it all accurately.

10 BY MR. FRADIN:

11          Q     So employees are permitted to drink during the  
12 work day, during work hours?

13          A     Not at the facility.

14          Q     But if you're at an outside facility, it's  
15 okay?

16          A     If you're at an event.

17          Q     So intoxication that you allege, that didn't  
18 violate any Citgo rules or regulations, did it?

19               MR. GRAY: Object to form, foundation.

20               THE WITNESS: Yes. You are allowed to have an  
21 alcoholic drink, you are not allowed to get sloppy  
22 drunk.

23 BY MR. FRADIN:

24          Q     Tell me the difference?

1           A     There's appropriate code of conduct.  People  
2     can drink without getting sloppy drunk and insulting co-  
3     workers.

4           Q     Is there a written limit on how many drinks  
5     they can -- a person have at a event?

6           A     I don't know.

7           Q     Were they specifically told at the event  
8     there's a specific number of drinks they were permitted  
9     to have?

10          A     I don't know.

11          Q     Who would know that?

12          A     Somebody that was -- maybe Brian Rimbo,  
13     possibly, I'm not sure.

14          Q     Would Brian Rimbo have set a policy for the  
15     amount of drinks that the employees could have at an  
16     event?

17          A     This specific event, I don't know.  He may  
18     have.

19          Q     If anybody were to set a policy on the drinks  
20     the employees could have at an event would have been  
21     Brian Rimbo?

22                     MR. GRAY:  Objection, form, foundation.

23     BY MR. FRADIN:

24          Q     You said yes, correct?

1           A     No, I don't know. I don't know.

2           Q     Well, if it weren't Brian Rimbo then who would  
3 it be who set that rule?

4           A     I mean, I just don't know for that event.

5           Q     Is there a rule for events in general how many  
6 alcoholic beverages an employee can have?

7           A     I don't know if there's something that has a  
8 specific number. I know there's policy related to what  
9 can be paid for on an expense account. I just don't  
10 know. I just don't know specifically if there's  
11 something that itemizes numbers.

12          Q     Who paid for the drinks at this event?

13          A     I don't know how that went. I don't know a  
14 lot of details about the event.

15          Q     What kind of drinks were there at the event?

16          A     I was not at the event. I don't know.

17          Q     Who would know?

18          A     Talk to somebody at the event. Brian Rimbo.

19          Q     Tell me about Brian Rimbo. What was his  
20 position at the time?

21          A     He was the Emergency Response Manager/Fire  
22 Chief.

23          Q     What was his role at the event?

24          A     The main -- the drill itself. The main

1 coordinator for the drill, since it's emergency  
2 response, our emergency response manager.

3 Q Did he drink at the event?

4 A I don't know.

5 Q Did he become intoxicated?

6 A I don't know.

7 Q Was anybody else investigated other than Dino  
8 for behavior at this event?

9 A Not that I -- not that I know of.

10 Q Why did you investigate Dino?

11 A Because there were several reports from  
12 employees back to the refinery, both the refinery HSS&E  
13 group, and the refinery HR group about Dino's behavior.

14 Q At that point, how long had Dino worked at  
15 that location?

16 A I don't know. I don't know how long Dino --

17 Q Do you know approximately?

18 A I knew Dino since the '90s so I'm assuming at  
19 least 20-some years but he may have worked there longer  
20 than that.

21 Q You know that he was there for the 1984  
22 explosion, correct?

23 MR. GRAY: Objection, asked and answered  
24 twice.

1 THE WITNESS: Yeah, only because you told me.

2 BY MR. FRADIN:

3 Q Okay. So you referred to incidents. What's  
4 the other incident?

5 A I don't -- shortly following that there was a  
6 event where Dino and several individuals went to the  
7 Citgo Sox suite, White Sox Park suite following an  
8 informal meeting during the day with some vendors.

9 COURT REPORTER: Excuse me, what?

10 MR. GRAY: With some vendors.

11 COURT REPORTERS: Oh, vendors?

12 THE WITNESS: Yeah.

13 BY MR. FRADIN:

14 Q When you say informal meeting, why do you say  
15 informal?

16 A I think they all had like a golf outing  
17 meeting versus a formal -- formal thing inside the  
18 plant.

19 Q Was that a Citgo sponsored event?

20 A It was an -- the meeting that he had before  
21 was a vendor, I think, soliciting business and showing  
22 them what kind of services they could provide. The Sox  
23 box is a Citgo sponsored, I mean, we pay for the Sox  
24 box.

1 Q The event itself was it Citgo sponsored?

2 A I don't know for sure. I think it was a -- it  
3 was -- it may have been the vendor setting that up to  
4 try to explain what their business was. I don't know  
5 the details of the day portion.

6 Q Who was the vendor?

7 A I don't know.

8 Q What day of the week was it?

9 A I don't know.

10 Q Weekend or weekday?

11 A Weekday.

12 Q Do you have records of the Sox game?

13 A Me, personally? I don't have any records of  
14 the Sox game.

15 Q So what was the incident that occurred that  
16 day?

17 A That was an incident where my memory is that  
18 Dino got very intoxicated again to the point that other  
19 people had to drive his vehicle home.

20 Q And is that why he was being investigated?

21 A There was a investigation initiated the next  
22 day.

23 Q Isn't it wise to have somebody drive your car  
24 home when you're intoxicated?



1           A     Yeah, it's wise to not drive when you're  
2     intoxicated.

3           Q     Correct. So there was alcohol provided at  
4     this event -- this last event that we're talking about,  
5     the golf outing and the Sox game and the -- was a  
6     luncheon involved with that event as well?

7           A     I don't know. I don't know. I know there's  
8     alcohol available at the Sox suite, I know that.

9           Q     Was Dino required to go to this event?

10          A     I think he was asked to go to the event.

11          Q     Who asked him to go to the event?

12          A     I don't know.

13          Q     And when he was asked to go to the event it  
14     was known that there would be alcohol at the event?

15          A     I don't know. I didn't ask.

16          Q     Did anyone talk to Dino about his use of  
17     alcohol at the event?

18                     MR. GRAY: Objection, foundation.

19                     THE WITNESS: Yeah, I don't know.

20     BY MR. FRADIN:

21           Q     So he was asked to go to an event where Citgo  
22     knew that alcohol would be available, correct?

23                     MR. GRAY: Objection, form, foundation.

24                     THE WITNESS: I don't know. Whoever asked him

1 -- I don't know if they knew for sure that the Sox suite  
2 had alcohol available.

3 BY MR. FRADIN:

4 Q Okay. What about at the luncheon. Was there  
5 alcohol at that event?

6 A I don't know.

7 Q Okay. So he already, according to your  
8 testimony, been spoken to or investigated for alcohol  
9 use, correct?

10 A Correct.

11 Q Now, how much time elapsed between the first  
12 investigation for Dino's alcohol use and the second  
13 investigation?

14 A I don't remember exactly. It was short  
15 duration though. It might have been a month, somewhere  
16 in that neighborhood.

17 Q In hindsight, do you think it was a good idea  
18 to ask Dino to go to an event where there would be  
19 alcohol readily available knowing that just one month  
20 earlier there had been an incident involving alcohol?

21 MR. GRAY: Objection, form, foundation. Asked  
22 and answered.

23 BY MR. FRADIN:

24 Q You can answer the question if you understand

1 it.

2 A I guess I don't understand it. Would it be  
3 wise for Dino to misbehave a second time, no. But  
4 somebody else asking him being responsible for his  
5 behavior that doesn't -- that seems to throw the  
6 responsibility that the individual has to somebody else  
7 and the responsibility is his for how he behaves and how  
8 much alcohol he consumes if he representing the company.

9 Q Was that a -- strike that. What do you mean  
10 when you say representing the company?

11 A He -- he -- the reason he was going to the Sox  
12 suite was as a -- he was going to the Citgo Sox suite as  
13 one of the Citgo representatives in the suite.

14 Q Do you track hours of employees -- what they  
15 work for Citgo?

16 MR. GRAY: Objection, form, foundation.

17

18 MR. FRADIN: Let me rephrase it.

19 BY MR. FRADIN:

20 Q Do you know if Citgo tracks the hours that  
21 their employees work for Citgo?

22 MR. GRAY: Objection, form, foundation.

23 BY MR. FRADIN:

24 Q You can answer if you understand the question.

1           A     Inside the facility we have a system that  
2     tells you exactly how long a period of time somebody is  
3     in and out of the facility because they're required to  
4     barcode in with their badge.

5           Q     Were these hours at the Sox game tracked for  
6     Dino as working hours?

7                     MR. GRAY:  Objection, form, foundation.

8                     THE WITNESS:  He's a supervisor.  We don't  
9     specifically track his hours.

10          BY MR. FRADIN:

11          Q     But you do track his hours inside the  
12     facility, correct?

13          A     His hours are recorded inside the -- inside  
14     the facility because there's a barcode that  
15     automatically does that but that's not used for any  
16     timekeeping purposes for supervisors.  So we know who is  
17     in and out of the facility.

18          Q     So is there any timekeeping for supervisors?

19          A     Supervisors fill out a exception report on a  
20     monthly basis defining their exceptions to the --  
21     vacation, illness, but there's nothing that tracks that  
22     says every day I worked eight, eight, eight.  There's  
23     nothing like that for supervisory.

24          Q     Okay.  To make out this exception report --

1           A     It's just a simple spreadsheet, some type of  
2     software system where you go in and you can pick from a  
3     pick list to say here's the -- I had five days of  
4     vacation in a row so I had eight hours of vacation on  
5     these calendar dates, or I had two days of illness  
6     absent, or I had, you know, two days of carry-over  
7     vacation from the prior year. And then you submit that  
8     to your supervisor for approval at the end of the month.

9           Q     Okay.

10          A     But it's an exception recorded versus --

11          Q     You don't pay anything extra to attend the Sox  
12     game?

13          A     I don't think so.

14          Q     What time of day or evening was the Sox game?

15          A     Sox games are usually 7:00 o'clock-ish, 7:30,  
16     so it must have been in that timeframe.

17          Q     So they might be going until maybe what, 11:00  
18     o'clock at night or something?

19          A     Yeah, 10:30, 11:00.

20          Q     So was Dino given any extra consideration or  
21     any extra pay for being at this event until 11:00 at  
22     night?

23          A     I doubt it?

24          Q     Let me show you what I have marked as Exhibit

1 F-1 for identification.

2 MR. GRAY: Do you have two copies or just one?

3 MR. FRADIN: I have just that one for now  
4 because we have got a second deposition coming up so I'd  
5 like to keep this stack.

6 MR. GRAY: Okay. We haven't Bates labeled  
7 these. These are just the pictures?

8 MR. FRADIN: They were Bates labeled and  
9 produced but these -- this particular set is not Bates  
10 labeled.

11 MR. GRAY: Okay, but I just want you -- these  
12 aren't the ones that were produced?

13 MR. FRADIN: These are the ones that were  
14 produced.

15 MR. GRAY: Okay, great.

16 BY MR. FRADIN:

17 Q Have you seen these photographs before?

18 A Nope.

19 Q Can you identify the individual --

20 MR. GRAY: He's asking you, by the way, first  
21 of all, this is a multi-page document. He's asking you  
22 about the entire thing so if you haven't seen it I  
23 suggest you take a look at it, whether you want to look  
24 at it or not, it's a different story.

1 BY MR. FRADIN:

2 Q Can you identify these photographs.

3 MR. GRAY: He just said he's never seen them  
4 before. How can he identify them. I object to form and  
5 foundation.

6 BY MR. FRADIN:

7 Q Can you identify anybody in the photographs?

8 A Maybe a couple of them. And whichever  
9 photograph number this is, that's Brian Rimbo and Brian  
10 Rimbo is also in the next photograph and the next one,  
11 and whichever -- three photographs is Brian Rimbo. I  
12 don't know who that guy is.

13 Q Why don't you go ahead and circle Brian Rimbo.

14 A That's the only one I recognize. That's only  
15 in those three photographs.

16 COURT REPORTER: Can you speak a little  
17 louder?

18 MR. GRAY: He can't hear you. He's -- you  
19 just --

20 THE WITNESS: Only in these three photographs.

21 MR. GRAY: Okay.

22 MR. FRADIN: Let the record reflect that the  
23 witness circled Brian Rimbo in three of the photographs.

24

1 BY MR. FRADIN:

2 Q Brian Rimbo is who replaced the Plaintiff,  
3 Dino Arias, in his position, correct?

4 A Eventually, not immediately.

5 Q And you had testified earlier that Dino had  
6 been investigated for intoxication at two separate  
7 events, correct?

8 A Yes.

9 Q These photographs were taken at the Tilted  
10 Kilt at this second event that you described. Can you  
11 describe what the photographs show?

12 MR. GRAY: Objection, form, foundation.  
13 Misstates the testimony. He said he's never seen these  
14 before so he's supposed to tell you what you just  
15 testified to that these were at a place. He said he  
16 hasn't seen them before.

17 MR. FRADIN: I just asked him to describe the  
18 photos.

19 THE WITNESS: There's people standing with  
20 women who, I'm assuming, they have uniforms on. I'm  
21 assuming they must work at the location because they all  
22 have the same uniform.

23 BY MR. FRADIN:

24 Q Have you ever been to Tilted Kilt before?



1           A     No.

2           Q     I want you to look at the three that you  
3     circled with Brian Rimbo in them. Can you describe the  
4     first one -- the first photograph?

5           A     Brian Rimbo is standing with three women.

6           Q     How are the women dressed?

7           A     Smiling, in the same uniform.

8           Q     Can you describe their uniforms?

9           A     They're, apparently they're Tilted Kilt  
10    uniforms, you know, short top, showing a lot of  
11    cleavage, bare mid-riffed, and I can't tell whether they  
12    got shorts or skirts on.

13          Q     So, if this were the luncheon for that event  
14    is this the sort of event that Citgo requires it's  
15    employees to go to?

16                   MR. GRAY: Objection, form, foundation,  
17    misstates to the evidence and testimony.

18                   MR. FRADIN: Well, let's back up.

19    BY MR. FRADIN:

20          Q     Do you have any reason to believe that these  
21    photographs are not from the luncheon on the date of the  
22    second incident that you testified to earlier?

23                   MR. GRAY: Objection, form, foundation.

24                   THE WITNESS: I've never seen them so to say

1    whether they're from that day or another day, I don't  
2    have any knowledge to know other than you gave them to  
3    me as an indication that they were but I don't know. I,  
4    I haven't seen them before so --

5    BY MR. FRADIN:

6           Q     Now there's one photograph, second from the  
7    last, there's an individual with a beard, a man, and can  
8    you describe the hat that he's wearing?

9           A     The hat that says Fire-Aide.

10          Q     Do you know who Fire-Aide is?

11          A     No.

12          Q     Do you know if Fire-Aide was the contractor  
13   that was being -- strike that.

14                Do you know if Fire-Aide was the contractor  
15   that was involved with the second event?

16          A     I don't know.

17          Q     On the top photograph, do you recognize the  
18   hat that the individual is wearing?

19          A     It could be a Citgo hat. I can't tell.

20          Q     And is that --

21          A     No. I can't tell.

22          Q     On the second page, there's a picture of an  
23   individual, what's the hat that that individual is  
24   wearing?

1           A     That one is a Citgo hat.

2                   COURT REPORTER: I can't hear you, what?

3                   THE WITNESS: That one is a Citgo hat.

4 BY MR. FRADIN:

5           Q     Do you know if alcohol is served at Tilted  
6 Kilt?

7           A     I've never been to Tilted Kilt. I would  
8 assume, it's a restaurant. There aren't too many  
9 restaurants that don't serve alcohol. I assume there  
10 was alcohol.

11          Q     Do you know if Brian Rimbo set limits for the  
12 amount of alcohol that the Citgo employees were to drink  
13 at the Tilted Kilt?

14                   MR. GRAY: Objection, form, foundation. I'll  
15 let you ask two more and then we can call the Judge on  
16 this, okay?

17                   MR. FRADIN: Okay.

18                   MR. GRAY: He said he wasn't there. He said  
19 he's never been to Tilted Kilt. He said he wasn't there  
20 with them. Now you're just being harassing, okay? We  
21 can get the Judge on the phone and read it through, but  
22 he's already said five times he wasn't there, he doesn't  
23 know, he's never even been there. Now you're just doing  
24 it to be a bully.

1           MR. FRADIN: You're making it tough for  
2 speaking --

3           MR. GRAY: No, I understand. I'm just warning  
4 you that much like your behavior last time, I will be  
5 glad, we'll call, we'll break it right now. We'll take  
6 the transcript to the Court and we'll let the Court say  
7 what he says. I wasn't there, I've never been there,  
8 and then you're asking what did a person say to an event  
9 that he wasn't at, et cetera. Well, you're just doing  
10 it to be difficult.

11          MR. FRADIN: You're just making speech --  
12 trying to coach him.

13          MR. GRAY: What's the coaching? The coaching  
14 is he keeps saying, I don't know, I wasn't there. I  
15 don't know, I wasn't there. You're just doing this to  
16 be harassing. So anyway, that's the point, I'm warning  
17 you, next one, we'll cut it off, we'll call the Judge  
18 and I'll ask for fees.

19          MR. FRADIN: What was the last question?

20          MR. GRAY: I can tell you what the last  
21 question was. What did Brian Rimbo say to Dino at the  
22 Tilted Kilt?

23          MR. FRADIN: That wasn't the question.

24          MR. GRAY: Yeah, it was. Do you know what

1 Brian Rimbo said to Dino Arias at the Tilted Kilt?

2 MR. FRADIN: Can you read the last question?

3 (Whereupon the record was read  
4 by the reporter as requested.)

5 MR. FRADIN: You can answer the question.

6 MR. GRAY: You can answer the question.

7 THE WITNESS: I don't know.

8 MR. GRAY: Thanks.

9 BY MR. FRADIN:

10 Q Earlier you testified that if anybody were to  
11 have set limits as the alcohol use at the event, it  
12 would have been Brian Rimbo, correct?

13 A No. I said -- you asked me if Brian Rimbo  
14 had set limits and I said I didn't know.

15 Q No. I asked who would have set limits and you  
16 said Brian Rimbo, if anybody, correct?

17 A I don't think I said that. I think I said  
18 something to the effect of maybe Brian Rimbo but I  
19 really don't know.

20 Q Okay. But just we're clear, that's the same  
21 Brian Rimbo who is in these photographs, correct?

22 A Correct.

23 Q Let me show you what I have marked as E-1. Do  
24 you recognize these photographs?

1           A     Nope. I only looked at the first one. I'll  
2 look at some more maybe I'll recognize -- are these the  
3 only --

4           Q     Look at the three photographs in B, E-1, 2,  
5 and 3.

6                   MR. GRAY: So he's just telling you, the first  
7 three pages, he answered no.

8                   THE WITNESS: I haven't seen them before.

9 BY MR. FRADIN:

10          Q     You testified earlier that the Chemical Safety  
11 Board had made an inquiry into the 1984 explosion,  
12 correct?

13                  MR. GRAY: Objection, form, foundation,  
14 misstates his testimony.

15 BY MR. FRADIN:

16          Q     Is that correct or not?

17          A     I stated that I was, I received verbal  
18 communication and then e-mail from Casey Bullock showing  
19 me that there was an e-mail between Dino and somebody at  
20 the Chemical Safety Board asking if they could get some  
21 information regarding the 1984 Unical fire.

22          Q     Okay, and --

23          A     I don't remember if that was --

24          Q     These photographs, do you know if they

1 accurately depict the aftermath of the 1984 fire?

2 MR. GRAY: Objection, foundation.

3 THE WITNESS: I didn't know they were from the  
4 1984 fire until you said that, but --

5 MR. GRAY: Remember, he's not testifying so we  
6 don't know what he says is true or not true.

7 THE WITNESS: These could be, I mean, there  
8 was a lot of damage. Those could be representative  
9 right at the fire area but I've never seen those before,  
10 so I don't know where they fit in, if there's a whole  
11 panacea of hundreds of photographs and those are real  
12 small snapshots, so I don't know how representative they  
13 are of the whole thing. I mean those are pretty close  
14 up things.

15 BY MR. FRADIN:

16 Q Did you know that Dino picked up the body  
17 parts from the explosion of his co-workers.

18 MR. GRAY: Objection, form, foundation. He's  
19 already testified he didn't meet Dino until the '90s.  
20 You want to continue to waste everybody's time, that  
21 works. You can answer the question.

22 THE WITNESS: Okay, I didn't know that.

23 BY MR. FRADIN:

24 Q Okay. Can you identify the document that

1 starts on page four of Exhibit E-1?

2 A It's a document from the State Fire Marshall  
3 and it says it's a technical information bulletin  
4 prepared by Packer Engineering. There's no title that  
5 defines it. It's only information from the first  
6 paragraph.

7 Q Okay, do you know if this document was  
8 provided to Roger Evans of the Chemical Safety Board?

9 A I don't know.

10 Q Do you know if Roger ever was seeking this  
11 document from Citgo?

12 MR. GRAY: Objection, form, foundation. Asked  
13 and answered at least four times.

14 BY MR. FRADIN:

15 Q Did you ever receive any communications from  
16 Roger Evans or from anybody at Citgo that Roger Evans  
17 was seeking this report?

18 MR. GRAY: Objection, asked and answered. Go  
19 ahead.

20 THE WITNESS: The communication I got did not  
21 specifically -- didn't have any specific report request.  
22 I just remember seeing something that's, I don't  
23 remember the exact statement but it was something to the  
24 effect of, can I get information on the 1984 fire. I



1 don't know what information but I don't remember it  
2 being a lot of detail with some specific request for a  
3 specific document or report. I don't -- it wasn't an  
4 eventful request that I remember much about.

5 BY MR. FRADIN:

6 Q I'm going to ask you to move on to what's  
7 marked as Exhibit E-13. Do you know if these photos  
8 accurately depict the aftermath of the 1984 explosion?

9 MR. GRAY: Objection, foundation.

10 THE WITNESS: Since I don't know -- I don't  
11 really know their origins, I don't know. And they're  
12 close-ups so that, you know, it's hard to say.

13 BY MR. FRADIN:

14 Q Do you know if any of these photographs were  
15 provided to Roger Evans in response to his inquiry?

16 A I don't know.

17 Q Do you know what the purpose of Roger Evans'  
18 inquiry was?

19 MR. GRAY: Objection, foundation. I don't  
20 know if he's asking about these pictures right now. He  
21 stopped on that -- he's not asking you a question.

22 THE WITNESS: I don't know what the purpose of  
23 the inquiry was and I don't know that it was an inquiry.  
24 It was a question to Dino, so I don't know.

1 BY MR. FRADIN:

2 Q Okay. Did you ever talk to Dino directly  
3 about Roger Evans?

4 A No.

5 Q Did you ever talk to Dino directly about  
6 safety at the facility?

7 A No, not specific, you know, we may have spoken  
8 about, he was organizing a safety picnic or something,  
9 so he would have come and talked to me about, hey, can I  
10 spend this much money on it, I'd like to do this. But  
11 nothing, you know, consider that something to support  
12 safety but I don't remember ever specifically having a  
13 conversation with him about a specific safety event or  
14 investigation or anything like that.

15 Q Okay. What about discussions with Casey  
16 Bullock?

17 A Yes. All the time.

18 Q What were the nature of those conversations?

19 MR. GRAY: Objection, form. All -- you're  
20 asking the nature of all his conversations with Mr.  
21 Bullock over -- he testified he started working with him  
22 15 years ago. So your question is to describe every  
23 conversation in the last 15 years?

24 MR. FRADIN: I'm asking to give an overview.

1 Like he --

2 MR. GRAY: Of every conversation in the last  
3 15 years?

4 MR. FRADIN: Yes.

5 MR. GRAY: Objection, form, foundation,  
6 harassing.

7 THE WITNESS: I can try to answer but it will  
8 be a very big picture summary but Casey will talk to me  
9 about anything from process safety management audit  
10 that's coming up and who is going to be involved to  
11 people who are going to off-site training events of  
12 various types to safety issue that we're following up in  
13 the plant related to something that we observed the  
14 contractor doing, and here's how we're correcting that.

15 Or, you know, speaking of the contractor to,  
16 here's, you know, a multi-site team that I'm on that's  
17 developing a new safety standard for some area. Here's  
18 the status update for that. You know, I mean, anything,  
19 anything that, you know, Casey's responsible for the  
20 safety department and the medical department. It could  
21 be -- here's a medical follow-up issue that we have  
22 related to an employee that's off, you know, I mean, the  
23 gambit. It could be anything.

24

1 BY MR. FRADIN:

2 Q Is there anybody else between you -- besides  
3 you and Casey who would be involved in conversations  
4 regarding safety at the facility?

5 A Oh, everybody that, I mean, that the way we  
6 look at it, everybody in the facility is a safety  
7 professional of some kind. Operators talk to me about  
8 safety when I go out and visit the operating shelters.  
9 Maintenance supervisors, engineers, engineering  
10 managers, people that are setting up safety plans for  
11 various construction -- I mean, it's not a real formal  
12 thing. When it comes to safety, it's everybody's job,  
13 so anybody will search for an opinion that will help  
14 them come up with a better plan or a better process or a  
15 procedure, so it could -- I, you know, literally could  
16 be anybody and the facility contractors as well.

17 Q So did you talk to anybody else other than  
18 Casey about the CSB inquiry?

19 A The only --

20 MR. GRAY: Objection, form, foundation.  
21 Misstates testimony yet again and misstates his -- the  
22 evidence, and asked and answered. I count now five  
23 times.

24 THE WITNESS: Casey was the only person that I

1 talked to.

2

3 COURT REPORTER: Was the only person that  
4 what?

5 THE WITNESS: Casey was the one person that I  
6 talked to about that CSB question to Dino Arias.

7 BY MR. FRADIN:

8 Q Okay, I'm going to ask you to look at Exhibit,  
9 what's marked as Exhibit G.

10 A Is that in this?

11 Q No.

12 A Any specific part of this?

13 Q I'm going to ask you to look --

14 MR. GRAY: So you're Exhibit B is a Group  
15 Exhibit of a bunch of documents out of order? Do I have  
16 a copy?

17 MR. FRADIN: That copy right there.

18 MR. GRAY: So you're not providing me a copy?

19 MR. FRADIN: There's a copy in your hand.

20 MR. GRAY: That's the one you gave the  
21 witness.

22 MR. FRADIN: I'm giving it to you.

23 MR. GRAY: So you're not giving one to the  
24 witness?

1 MR. FRADIN: I'll give one to you and --

2 MR. GRAY: Well, you just asked him -- tell me  
3 what this is. It's got to be what, 75 pages with  
4 handwriting on it?

5 MR. FRADIN: I'll give this to you but I need  
6 it -- just so we don't have to make so many copies with  
7 the next deposition, if I can get it back.

8 MR. GRAY: But this one says G-1, G-14, G-32,  
9 G-28, 20, 29. I don't understand what this exhibit is.

10 MR. FRADIN: Take a look at it.

11 MR. GRAY: No, I am looking at it. It's  
12 exhibit --

13 MR. FRADIN: Give me an opportunity to ask him  
14 questions, please.

15 MR. GRAY: No, no. You give our witness 60  
16 pages worth of documents, so you want him to spend the  
17 next hour reading it?

18 MR. FRADIN: No, just let me ask a question  
19 about it, please.

20 MR. GRAY: About?

21 MR. FRADIN: About a document within that  
22 array of e-mails.

23 MR. GRAY: So you're just asking -- then tell  
24 him what document, allow him to review it.

1                   MR. FRADIN: Give me an opportunity to do  
2 that.

3                   MR. GRAY: No, no, you said -- you already  
4 started to ask your question about 60 pages that you've  
5 cobbled together, hopefully, probably trying to trick  
6 him into something that he hasn't seen yet. Tell him  
7 what to review, he'll get to do it. But that violates  
8 the rules, you know, the rules that govern lawyers.

9                   MR. FRADIN: You've got to take it easy and  
10 stop --

11                  MR. GRAY: No, no, you've got to follow the  
12 rules. Okay.

13                  MR. FRADIN: We're not going to -- if you want  
14 to get to -- you said the next one at 2:30, you're going  
15 to have to stop interrupting me.

16                  MR. GRAY: You're not asking any questions  
17 that are relevant. You're asking him multiple questions  
18 about stuff he doesn't know about just to try to make  
19 some point. If you, by the way, this is the only day  
20 you're getting Mr. Albaugh, and we're getting out of  
21 here, so you better --

22                  MR. FRADIN: Then you better stop interrupting  
23 then.

24                  MR. GRAY: By the way, the record will be

1 clear. We'll take it to the Judge. You and I will go  
2 to the Judge. We'll take the pictures where you're  
3 trying to embarrass the witness by pictures from your  
4 client's phone of women in scantily -- we'll go to the  
5 Judge and we'll present that behavior. You name the day  
6 and we'll see how it ends up for you or me.

7 MR. FRADIN: This isn't your deposition,  
8 really, this is his deposition. You've got to stop --

9 MR. GRAY: No, no.

10 MR. FRADIN: -- you're talking more than he's  
11 talking.

12 MR. GRAY: That's fine, that's fine. I'll  
13 give you a little bit more time then we'll go to the  
14 Court. You can show up dressed like you are. Before  
15 you go, make him tell you the page.

16 MR. FRADIN: We'll take a look at what's  
17 marked Exhibit G-16. You're telling me about the -- you  
18 laughed while my client was crying during his deposition  
19 when he was discussing cleaning up the body parts of 17  
20 bodies. You laughed.

21 MR. GRAY: This has nothing --

22 MR. FRADIN: Don't you ever talk to me  
23 about --

24 MR. GRAY: This has nothing to do with



1 anything. This is how -- wait -- this isn't how  
2 lawsuits are handled. It's not how lawyers behave.  
3 That has nothing to do with anything. It has zero to do  
4 with anything. You're asking Mr. Tancredi, he drove an  
5 hour-and-a-half to be here -- he's -- he has a job, he's  
6 told you what it is. He has had some interaction with  
7 Mr. Bullock and Mr. Arias. As him about that stuff.  
8 Don't ask about pictures that he's never seen before,  
9 don't start talking about what happened at Unical in  
10 1984. Ask him about why it's relevant. And if you have  
11 a problem with that, let's go to the Judge, take the  
12 transcript, and we'll see what she's --

13 MR. FRADIN: Meanwhile, you're on your phone  
14 the entire time talking about, you know, what I'm  
15 wearing. What does that have to do with anything? Why  
16 would you even mention that when you're on your phone  
17 laughing while my client is crying during his deposition  
18 so don't ever say anything to me again about deposition  
19 decorum.

20 MR. GRAY: If you conduct yourself the way --  
21 I will not say anything. If you're trying to bully and  
22 harass our witnesses, I'm going to say something.

23 MR. FRADIN: Nobody harassing. My client was  
24 crying and you were laughing at him and you're telling

1 me by asking him questions, I'm harassing him?

2 MR. GRAY: I was not laughing, I was smiling,  
3 and I was smiling at you and the way you were handling  
4 yourself. That's what was going on, okay? That's what  
5 was happening. I didn't laugh. There's a recording --

6 MR. FRADIN: You were laughing.

7 MR. GRAY: There's a recording, we'll see if  
8 there's laughing. I guarantee there's no laughter on  
9 it. I was smiling because --

10 MR. FRADIN: It shows your personality and it  
11 shows Citgo's, it's reflective as well.

12 MR. GRAY: Absolutely. You're talking about  
13 something that's nothing to do with anything, trying to  
14 be -- like we're on television. I'm saying let's get  
15 down to it.

16 MR. FRADIN: You think the 1984 explosion has  
17 nothing to do with this lawsuit?

18 MR. GRAY: I know for a fact that 1984  
19 explosion that was at a company multiple times before  
20 Citgo, well before he was employed by Citgo, has nothing  
21 to do with the fact that your -- your client was abusive  
22 to multiple people and got fired for it. Excuse me,  
23 resigned before he got fired. That's what the case is  
24 about. But you want to make it about anything else.

1 We'll talk about it another time.

2 MR. FRADIN: Well, keep your testimony on the  
3 record that he got fired, thank you for that, counsel.

4 MR. GRAY: That's right. The problem is it's  
5 not about your trickery it's about what the witnesses  
6 say.

7 MR. FRADIN: It's not about trickery. If you  
8 want to talk on record and then what you say on the  
9 record goes on the record.

10 MR. GRAY: Sure, go right ahead.

11 MR. FRADIN: You said that he was fired, thank  
12 you for that.

13 MR. GRAY: Absolutely.

14 BY MR. FRADIN:

15 Q All right, I'm asking for -- to take a look at  
16 Exhibit G-16. Do you recognize that document?

17 A Yes.

18 Q Can you identify it?

19 A Yeah, it's a request for e-mails related to a  
20 request that our corporate HSS&E staff learned there was  
21 going to be a request made throughout the industry from  
22 the Chemical Safety Board to various locations and he  
23 was providing us with a heads-up and some background  
24 information to say hey, here's what I know about this

1 request that's coming. And then the final e-mail on  
2 this is me letting Casey Bullock and Ray Boutte know,  
3 because they were the likely people to receive the  
4 request based on the information that was provided by  
5 both the AFPM and our corporate people that they had  
6 asked the CSB -- the CSB had asked for the names of the  
7 process safety management coordinators so that would --  
8 Ray Boutte is that individual at our site. So I sent  
9 him and Casey Bullock this e-mail to let him know, hey,  
10 you may see this request per this e-mail string.

11 Q Now, was that the same request from CSB that  
12 you were discussing earlier?

13 A No.

14 Q Okay, what's the difference between the two?

15 A The one earlier was simply looked to be an  
16 information conversation of some kind from Dino related  
17 to a specific event that had happened at Unical in 1984,  
18 whereas this request was a Chemical Safety Board going  
19 industry-wide looking for information on a whole bunch  
20 of different incidents that had occurred. So this was a  
21 global refining request.

22 Q Okay, do you know the timeframe of the two  
23 incidents -- strike that.

24 Do you know the timeframe of the two requests?

1           A     This one -- just because I'm looking right at  
2     it, is April 2104. The other one I don't. I don't  
3     remember what that timeframe was.

4           Q     Do you know if it was before or after this  
5     request?

6           A     I'm thinking it was before but without looking  
7     at a document that specifies -- that thing -- this was  
8     something that I ended up doing some work to get  
9     information on so I remember it. The other one was gone  
10    in the blink of an eye. It was a verbal conversation  
11    and then here's the e-mail on that and then nothing ever  
12    became of that. So I don't recall that one.

13          Q     Okay. When you say nothing ever came of it,  
14    do you know why nothing ever became of that?

15          A     This -- I -- when I got the information  
16    basically I did forward it to corporate attorney to  
17    say --

18               MR. GRAY: Objection, he's asking about if it  
19    implicates communications with counsel. I'm directing  
20    you not to answer it. If you can answer Mr. Fradin's  
21    question --

22               THE WITNESS: I can't answer without saying  
23    that --

24               MR. GRAY: Well, hold on here. So you -- the

1 point is, you can't disclose your communications with  
2 counsel.

3 THE WITNESS: Yeah.

4 MR. GRAY: If you can answer the question  
5 outside of that I want you to do it but you can't --

6 MR. FRADIN: I can, yeah. The request came to  
7 as no subsequent request after -- we didn't deliver  
8 anything from the refinery. I don't even know if we had  
9 the information since it was from Unical's days. But I  
10 know we didn't deliver anything from the refinery and we  
11 never received a subsequent request to say I'm looking  
12 for the information so it just kind of went away.

13 BY MR. FRADIN:

14 Q Okay. I'm going to ask you to look at Exhibit  
15 G-14. Can you identify that e-mail?

16 A Let me read it for a second.

17 MR. GRAY: Objection, form.

18 BY MR. FRADIN:

19 Q Can you identify this document?

20 A It's a -- and the title kind of explains it  
21 pretty well. It's an e-mail regarding Dino's Arias'  
22 work restrictions being revised on December 18th, 2013.

23 Q Do you know why you were copied on this e-  
24 mail?

1           A     All e-mails of this type -- there are from  
2     time-to-time employees have medical limitations for  
3     whatever reason, illness, injury, something they did at  
4     home. When they do our medical department can't give us  
5     the medical background for why they have certain  
6     symptoms but they will then let the direct supervisor  
7     know and then generally the direct supervisor's  
8     supervisor is also copied on the list as well as HR to  
9     say this individual that reports to you has these  
10    physical restrictions, can you accommodate, basically,  
11    can they perform work or do I have to tell them they're  
12    off on sick leave because they're restricted too much to  
13    do the basic functions of their job. So this is kind of  
14    a standard document. Since it's Dino it went to Casey  
15    and then HR and I was copied.

16          Q     Do you know why Dino's work restrictions were  
17    changed?

18          A     From the document it appears because he saw  
19    Dr. Metro at 11:30 a.m. on December 17th. Because the  
20    subsequent e-mail speaks to -- here's what the  
21    restrictions are revised to. Don't know that for sure  
22    but that's how the document seems to flow.

23          Q     You see the document marked G-35? Can you  
24    identify that document?

1           A     Yes, this is to the document we were  
2     referencing just a short while ago. This is Casey  
3     Bullock's response to my -- my -- I gave him the heads  
4     up, saying hey, you could expect to receive a request  
5     from the Chemical Safety Board related to this industry-  
6     wide request they were making and it's Casey Bullock's  
7     response basically telling me he had not received any  
8     such request as of this time.

9           Q     And then could you take a look at G-37. Can  
10    you identify that document?

11          A     Okay. Yes, this is on that same topic. It  
12    was a Chemical Safety Board request that corporate had  
13    sent me the heads-up on and then I relayed that heads-up  
14    to Casey Bullock and Ray Boutte and this is Ray Boutte's  
15    response to me basically telling me that he did see --  
16    receive a request from the Chemical Safety Board 15  
17    minutes ago.

18          Q     And you responded with what?

19          A     Great news.

20          Q     What did you mean by that?

21          A     I don't know but that we actually got, you  
22    know, it's kind of closure. We were saying that we  
23    should receive one and we now have one.

24          Q     You really did feel as if it was great news?



1           A     I don't know. It was several years ago so I  
2 don't -- I don't know.

3           Q     But you sent that e-mail, right?

4           A     Yep.

5           Q     Do you remember sending it?

6           A     No. I remember getting information back from  
7 Ray telling me that he received the request. I didn't  
8 remember if I responded or not. It looks like I gave  
9 him a two word response.

10          Q     But as far as your recollection is concerned  
11 you were sincere in that you believe that it was great  
12 news?

13          A     I don't know what I was -- I was glad that we  
14 had actually heard something because we had just seen a  
15 lot of information from corporate and AFPM saying that  
16 the request was coming so we got our request.

17          Q     And I ask you to take a look at exhibit marked  
18 G-30. Now, can you identify that document?

19          A     Yeah, this appears to be that request that we  
20 talked about earlier where Casey told me that Dino had a  
21 request from the Chemical Safety Board for some  
22 information related to the 1984 Unical event.

23          Q     Okay.

24          A     And --

1 Q And tell me what does Casey say to you?

2 A This is someone from CSB that Dino knows. Not  
3 sure what their objectives are.

4 Q Okay. Who is their in that sentence?

5 A I don't know. I'm assuming he's talking about  
6 the Chemical Safety Board because that's who's  
7 referenced as the third-party but I don't know for sure.  
8 It's Casey's e-mail but --

9 Q It could have been Dino and Roger Evans,  
10 correct?

11 A It could have been anybody. I just don't  
12 know.

13 Q So it's a reasonable interpretation that not  
14 sure what their objectives are -- their refers to Dino  
15 and Roger Evans, right?

16 MR. GRAY: Objection, form, foundation.  
17 Misstates his testimony.

18 THE WITNESS: And I wouldn't say -- I would  
19 say my initial assumption would always be that when  
20 we're saying their we're referring to the third-party,  
21 so if somebody from the Chemical Safety Board is asking  
22 for something we would more likely refer to them as  
23 their and more likely refer to somebody like Dino, who  
24 was an employee, as our, but that's my guesstimate,

1 speculation so, but that's what -- that's what would be  
2 more common.

3 BY MR. FRADIN:

4 Q What makes you say that would be more common?

5 A Because there is somebody else, our is, we  
6 consider us. We're Citgo. Somebody from Citgo received  
7 a request. That's a request to us and it came from  
8 them. That's just --

9 Q So they -- their implies an outsider to an  
10 extent --

11 A That's probably -- yeah -- on something like  
12 this, that's what I would assume.

13 Q So if by their he did include Dino that would  
14 imply that Dino was, at that point, somewhat of an  
15 outsider, correct?

16 MR. GRAY: Objection, form, foundation,  
17 misstates his testimony.

18 THE WITNESS: That would be speculate.

19 BY MR. FRADIN:

20 Q Did you respond to this e-mail?

21 A I don't think so.

22 Q Did you search your e-mail before --

23 A Yeah, I searched and I didn't see any  
24 response.

1 Q Did you find this e-mail in your search?

2 A I did not find this one. I would -- this one  
3 I got shown. I found the other Chemical Safety Board  
4 one.

5 Q Did you look at this e-mail before the  
6 deposition?

7 A Yeah.

8 Q When did you look at it?

9 A Man, I don't even remember for sure.

10 Q Who showed it to you?

11 A Man, I -- I don't remember when I saw this.

12 Q Was it after the litigation was initiated?

13 A I think so because there would be no other  
14 reason that -- I mean this was such a nothing that  
15 that's the only reason I remember even seeing this was  
16 that this somehow was coming up in the litigation  
17 because otherwise this thing was to me nothing. So I  
18 didn't even remember it.

19 Q So this would have been within the last few  
20 months that you talked about it with somebody else?

21 A Probably or within the last year anyway --

22 Q Do you remember where you were?

23 A At the refinery but I really don't remember.  
24 I just remember that this came up and I was trying to

1 figure out why this even came up.

2 Q Did you talk to this person about the word  
3 their in this e-mail?

4 A No.

5 Q Did you talk to this person about this e-mail  
6 at all?

7 MR. GRAY: Could we establish who this person  
8 is?

9 MR. FRADIN: Well, he doesn't remember --

10 MR. GRAY: Well, if he doesn't remember, so if  
11 he doesn't know who it is -- if it's a lawyer you're  
12 directly going in to attorney/client privilege  
13 communications. He just said he doesn't know who the  
14 person is. So, right?

15 MR. FRADIN: He can answer if he remembers the  
16 conversation with this person.

17 THE WITNESS: Yeah.

18 MR. GRAY: But he just said he doesn't and so  
19 now you're asking --

20 MR. FRADIN: But he can't remember who the  
21 person is --

22 MR. GRAY: Right.

23 MR. FRADIN: -- that doesn't mean he doesn't  
24 remember. Well, okay, let's back --

1                   MR. GRAY: Let's just make sure -- if it's a  
2 lawyer you're not asking him --

3 BY MR. FRADIN:

4           Q       Was it a male or a female?

5           A       I don't know. This thing to me was so small  
6 that I just don't remember much. I just remember being  
7 shown this -- do you remember this -- did anything ever  
8 come of this? I just remember saying no, I -- I looked  
9 at it and I said, yeah, I kind of remember when they  
10 asked but this -- nothing ever happened.

11          Q       Do you remember where you were when the person  
12 asked you about this?

13          A       No. It would have been at work because  
14 there's no place else this would have come up. I just  
15 don't remember.

16          Q       Did any person within an attorney or someone  
17 along those lines come to your work at any point so that  
18 this communication we're talking about might be  
19 privileged.

20                   MR. GRAY: Objection, form, foundation. Wait  
21 a second. I -- he's not sure about the conversation  
22 you're asking about. It was a lawyer? I'm not  
23 following --

24                   MR. FRADIN: Well, you're the one who raised

1 attorney/client privilege with this conversation.

2 MR. GRAY: Because he says I don't know where  
3 I've seen it before. I talked to someone so I don't  
4 know if it's a lawyer or not. I'd like to establish  
5 whether or not it's a lawyer before you go into it.

6 MR. FRADIN: So would I. Go ahead, establish  
7 it.

8 MR. GRAY: I don't know. I have no idea.

9 THE WITNESS: I don't know. This thing was --  
10 it's just nothing that --

11 MR. FRADIN: What else was --

12 THE WITNESS: -- there's nothing in here  
13 that's significant enough that I remember.

14 BY MR. FRADIN:

15 Q What I was going to show to you at that time?

16 A I don't remember. I mean this -- I remember  
17 the other one because I think I was the one that went  
18 and found the e-mails when somebody asked me about a  
19 Chemical Safety Board conversation. This one -- I don't  
20 remember because it was just not significant.

21 COURT REPORTER: It was just not what?

22 THE WITNESS: It was just not significant.  
23 There was no -- there was no follow-up and communication  
24 whereas the other one -- I remember because somebody

1 asked me with the Chemical Safety Board make a request  
2 at some time that we responded to and I said yeah, I'll  
3 have that document somewhere and I found it This one --  
4 I just -- it wasn't anything that makes me remember.

5 Q Okay.

6 COURT REPORTER: Is that you asked him --

7 THE WITNESS: What makes me remember. That  
8 makes me remember. No activity --

9 MR. GRAY: You don't have to answer. He's the  
10 court reporter. He's just trying to get your -- what  
11 your words -- you just said were correct. He's not  
12 asking you anything further.

13 THE WITNESS: Nothing further makes me  
14 remember.

15 MR. GRAY: Why don't we take a break?

16 MR. FRADIN: Sure.

17 (Whereupon a short recess was  
18 had.)

19 BY MR. FRADIN:

20 Q Okay, G-13. Can you identify that document?

21 A It's the job description for the contract  
22 safety coordinator.

23 Q Is that the job description for -- what was  
24 Dino's job?



1           A     It appears to be but it does not specifically  
2 say on here Citgo Lemont refinery.

3           Q     I mean, this was provided by Citgo in this  
4 litigation.

5                   MR. GRAY: So which one is this -- this is G-  
6 13? But you don't have a Bates number on it?

7                   MR. FRADIN: Maybe the Bates number got cut  
8 off with printing.

9                   MR. GRAY: Okay, but this is the one that  
10 you're representing was Bates number?

11                  MR. FRADIN: This is the one that was Bates  
12 number --

13                  MR. GRAY: Okay, fine. So, when we produce  
14 documents, Jim --

15                  THE WITNESS: Uh-huh.

16                  MR. GRAY: -- it's -- you look at the next  
17 page. It says at the bottom, and that identifies that  
18 your lawyers produced it to Dino's lawyers. Okay? It's  
19 not here but Mr. Fradin's representing that it should be  
20 on there but it somehow got cut off.

21                  MR. FRADIN: We can go off the record and I  
22 can print it out --

23                  MR. GRAY: No, no, no. I'm taking your  
24 representation. Let's keep the show going.

1 BY MR. FRADIN:

2 Q Can you identify the document?

3 A Yeah. It's the job description for the  
4 contractor safety coordinator.

5 Q And in 2014, contract safety coordinator is  
6 the position that Mr. Arias held, correct?

7 A Correct.

8 Q This document lists essential duties. Do you  
9 have any information that Mr. Arias was in any way  
10 deficient in any of those job duties in 2014?

11 A Not that I recall.

12 Q If there is problems with an employee in their  
13 performance is there any sort of method for identifying  
14 that?

15 MR. GRAY: Objection, form, foundation.

16 THE WITNESS: On this document or in general?

17 MR. FRADIN: In general.

18 THE WITNESS: Several things you can do, I  
19 mean, if it's an incident that occurs at a specific time  
20 you'll have a counseling and/or related discipline to  
21 the incident or event. Also there's annual appraisals  
22 of the individual's performance as well, at a minimum,  
23 even if nothing occurred in between the annual time.

24

1 BY MR. FRADIN:

2 Q Where are the annual appraisals kept?

3 A There's an online system.

4 Q Who would have access to that?

5 A HR would have access to it. An employee  
6 themselves has access to their own document and then the  
7 employee's direct supervisor has access to the  
8 employee's documents as well or the online document.

9 Q So as far as you know, there were no problems  
10 with Dino in his performance of any of the seven  
11 essential duties, correct?

12 MR. GRAY: Objection, form and foundation.

13 THE WITNESS: I did not specifically hear  
14 anything directly related to those seven items.

15 BY MR. FRADIN:

16 Q Are there any other job performance items that  
17 are not listed on this document?

18 A Well, everybody's got code of conduct issues  
19 -- what they're -- how they're expected to conduct  
20 themselves professionally both with other employees as  
21 well as representatives of other companies, contractors.  
22 We're all required to meet legal obligations, regulatory  
23 obligations. Those won't necessarily be identified in  
24 here. We had a lot of annual training related to those

1 responsibilities versus these are tend to be the more  
2 technical functions of your job. These are duties  
3 versus conduct.

4 Q Tell me about the difference between duties  
5 and conduct.

6 A The easiest way to say it for me would be  
7 duties are the what you're expected to do and get done;  
8 conduct is how you're expected to do those duties and  
9 how you're expected to conduct yourself as an  
10 individual.

11 Q Which would you identify as performance?

12 MR. GRAY: Objection, form.

13 COURT REPORTER: Someone's at the door,  
14 counsel.

15 (Whereupon an interruption was  
16 had.)

17 THE WITNESS: You'll have to repeat the  
18 question.

19 MR. GRAY: Did you give an answer?

20 THE WITNESS: I don't even remember the  
21 question.

22 MR. GRAY: I think he said -- well, I'll let  
23 him answer.

24

1 BY MR. FRADIN:

2 Q All right. Which duties or conduct is --  
3 would you identify as performance?

4 A Both.

5 MR. GRAY: And I objected, form. You can  
6 answer.

7 THE WITNESS: It would be both. I mean, you'd  
8 have a performance gauge on how you're doing versus the  
9 what of your job that you're supposed to do but also  
10 your performance appraisal relates to how you conduct  
11 your business.

12 BY MR. FRADIN:

13 Q Was there a performance appraisal of Dino in  
14 2014?

15 A I believe there was. I don't know when he  
16 resigned -- if he resigned in '15 there would have been  
17 one for '14. If he resigned -- they happen toward the  
18 end of the year. The final month of the year is usually  
19 when they occur so I don't remember when he left but  
20 there would be one for every year that he was still  
21 employed at the end of the year.

22 Q Is there a written document that is the result  
23 of the performance appraisal?

24 A There's an online document that the supervisor

1 and the employee populate.

2 Q Is the job description master form used in  
3 making that evaluation?

4 A The document would not cross-reference every  
5 item but it speaks to -- for the -- for the goals that  
6 you set for that year, for the challenges you had that  
7 year, what was your performance. So it does not go down  
8 and say in each of these categories how did you perform.  
9 It's more for the course of this year you were in this  
10 role, here's the plant activities that we had that you  
11 had to deal with, here's how you conducted yourself  
12 doing it and it's an assessment of that versus it  
13 doesn't go, oh, you on item one here you scored this  
14 way. It doesn't -- it doesn't do that.

15 Q Is the master form used for bonus evaluations?

16 A The form itself is not the rating is.

17 Q Explain to me how the rating is?

18 MR. GRAY: Objection, foundation.

19 THE WITNESS: There's a rating at the last  
20 portion of your annual appraisal gives you a rating  
21 which is a relative rating for how you perform versus a  
22 criteria of top performers, next level performers,  
23 average performers. That contribution rating is one of  
24 the multipliers when evaluation what level of bonus you

1 can get and also what range of bonus you can get.

2 Q And are each of the central duties examined in  
3 that evaluation?

4 MR. GRAY: Objection, form, foundation.

5 THE WITNESS: It would not -- as I said before  
6 -- on the appraisal process does not directly cross-  
7 check every one of these and try to rate you per each of  
8 those categories. It tries to rate your overall  
9 performance for how you fulfilled your job duties as a  
10 whole based on the activities that occurred during the  
11 course of the year.

12 BY MR. FRADIN:

13 Q By those job duties do you mean the essential  
14 duties?

15 A It would be your essential duties, also how  
16 you conducted your business. If you had additional  
17 challenges that year there was something unexpectedly  
18 that you were assigned to do because of need, how did  
19 you respond to that. You know, you were short-staffed  
20 in an area and therefore you ended up having to fill two  
21 job duties that would be taken into account into your  
22 performance.

23 Q Is the percentage of time that's in the far  
24 right corner reflective in the bonus as well?

1           A     No.

2           Q     So there's no higher rate for the one that's  
3     30 percent versus one that's 20 percent in terms of  
4     evaluating somebody for the bonus?

5                     MR. GRAY:  Objection, foundation.  You can  
6     answer.

7                     THE WITNESS:  I doesn't directly cross-check  
8     like that.  Your overall performance contribution for  
9     the course of the year is what is used to evaluate.

10    BY MR. FRADIN:

11           Q     Okay.  Did you receive a bonus in 2014?

12           A     Yes.

13           Q     Do you know what that amount of the bonus was?

14           A     No.

15           Q     Do you know approximately?

16           A     No, I would have to go find a document and  
17     look at it.

18           Q     What's your salary?

19           A     Roughly \$275,000.

20           Q     Do you know what it was in 2014?

21           A     Probably four, four-and-a-half percent a year  
22     less, whatever that, whatever the math is.

23           Q     So maybe \$240,000 or so?

24           A     Yeah, could be.  Whatever that works out going



1 backwards.

2 Q Maybe you can somewhat -- can't do that kind  
3 of math in my head but somewhere in the low \$200,000,  
4 would you say in 2014?

5 A Or mid, low to mid.

6 Q Low to mid-200's

7 COURT REPORTER: What was your answer?

8 THE WITNESS: Low to mid.

9 BY MR. FRADIN:

10 Q Do you know what your bonus was in 2017?

11 A No.

12 Q Approximately?

13 A I'm trying to do math in my head. It's  
14 probably in the neighborhood of \$60,000.

15 Q Who makes the ultimate final determination on  
16 the bonus amount?

17 A It's a sequential process. So the direct  
18 supervisor has the initial entry based on their  
19 personnel and what their parameters for a top performer  
20 can get a bonus in this percentage range. You have to  
21 stay within -- within those ranges. Then the individual  
22 supervisor would give his input to their division  
23 manager who's looking to make sure that all the  
24 department managers in their area did things in a

1 similar manner and they may tweak it a little bit.

2 Then there's also a discussion after that with  
3 the refinery leadership team bringing all the divisions  
4 together to make sure it looks like an equitable  
5 distribution occurred. So that ultimately the final  
6 signature on that becomes the plant manager saying  
7 here's what, in our case, Lemont refineries total bonus  
8 plan looks like.

9 So the plant manager is the final signature  
10 but along the way the individual's immediate supervisor  
11 division manager and then the refinery division managers  
12 as a whole will have gotten together to review.

13 Q Who's the plant manager?

14 A Jim Cristman.

15 Q Who was the plant manager in 2014?

16 A Jim Cristman.

17 COURT REPORTER: Is it C-h-r-i-s-t-m-a-n.

18 THE WITNESS: C-r -- yeah. C-r-i-s-t-m-a-n.

19 BY MR. FRADIN:

20 Q Have you received a bonus every year that you  
21 worked for Citgo?

22 A No.

23 Q Which year did you not receive a bonus?

24 A I don't remember but there -- there was at

1 least one year, possibly two, where the entire  
2 corporation -- no one received a bonus.

3 COURT REPORTER: Did not receive a bonus?

4 THE WITNESS: No one, yeah. That the entire  
5 corporation --

6 COURT REPORTER: Yeah, I heard that. I heard  
7 that.

8 THE WITNESS: -- did not receive a bonus.

9 BY MR. FRADIN:

10 Q Do you know within 2014 bonuses were given?

11 A Yeah, bonuses were given in 2014.

12 Q Do you know if they were given at all a rate  
13 -- strike that.

14 When the direct supervisor discusses the  
15 performance of the employee with the division manager is  
16 that done verbally or in writing?

17 A Usually verbally.

18 Q And then from the division manager to the  
19 department manager, is that also verbal?

20 A Yeah. What did you ask the first time --

21 Q First was to the direct supervisor to the --

22 A Okay. That's the -- virtually the same thing.

23 In most cases the direct supervisor is a department  
24 manager --

1 Q Okay.

2 A -- and then the department manager reports to  
3 a division manager.

4 Q And is that all -- that whole process is  
5 verbal?

6 A The discussion is generally verbal. At the  
7 end there is a spreadsheet of some sort that will  
8 identify what the dollar amount for a bonus is but most  
9 of the discussion happens verbally. But at some point  
10 it's got to be put into a spreadsheet so that it can be  
11 communicated.

12 Q And what's on that spreadsheet?

13 A People's names and positions, what their  
14 performance ranking was for the year, and then  
15 ultimately their -- their bonus amount.

16 Q Do you know if the 2014 bonus was particularly  
17 different from any other year?

18 A Not that I recall. I think it was pretty  
19 similar.

20 Q Do you know if Dino received a bonus in 2014?

21 A I don't think he received a bonus in 2014.

22 Q Do you know why?

23 A His performance.

24 Q Okay. Explain what you mean by that?

1           A     I believe he was an EDP-4 ranking, which is  
2     somebody not meeting the expectations of their job and  
3     for that you have a range that you can give in a bonus  
4     and the low end of that range is zero. Based on his  
5     performance issues that year he received zero.

6           Q     Who made that determination?

7           A     That went all the way through the  
8     organization, from Casey Bullock looking at it, me  
9     looking at it, HR looking at it, the division managers,  
10    and ultimately Jim Cristman would have seen it as well.

11          Q     Are you aware that Casey Bullock testified  
12    that there were no performance issues in Dino's  
13    performance in 2014?

14               MR. GRAY: Objection, form.

15               THE WITNESS: I don't know. If 2014 was the  
16    year that Dino had the disciplinary issues then there  
17    were performance issues. So I would be surprised if  
18    somebody said there weren't.

19    BY MR. FRADIN:

20          Q     But you testified as well that out of the  
21    seven essential duties there were no performance issues,  
22    correct?

23               MR. GRAY: Object.

24               THE WITNESS: I wasn't aware of issues related

1 to these duties but these duties are only part of the  
2 performance assessment.

3 BY MR. FRADIN:

4 Q What's the -- is there a written document that  
5 discusses the other duties that are part of the  
6 performance assessment?

7 MR. GRAY: Objection, form, foundation, asked  
8 and answered.

9 THE WITNESS: Yeah. There's -- I -- there's  
10 expectations for employees annual codes of conducts. We  
11 take annual training on that every year that says what  
12 the expectation is for how you are to conduct your  
13 business, how you're to treat other people, how you're  
14 to be tolerant of people that are different. Those are  
15 all -- that's where that is all documented.

16 BY MR. FRADIN:

17 Q So is it your testimony that Mr. Arias was not  
18 eligible for a bonus in 2014?

19 A He was eligible for a bonus in the range  
20 commiserate with the rating he had and the bottom end of  
21 that range was zero and that's what he got.

22 Q Is there any sort of written documentation  
23 between single employees that discusses this rating?

24 A There is a published bonus plan that describes

1    how your employer contribution fits into the overall  
2    calculation for the bonus.  I don't remember how  
3    specific it is but there is a document that's right  
4    under the Citgo website that explains that.

5           Q     I'm showing you what I have marked as Exhibit  
6    I for identification.  Can you identify this document?

7           A     The first page or --

8           Q     The first page and then the document that  
9    follows.

10          A     This is the compensation or just bonus.  Yeah,  
11    this appears to be the summary of the -- it's called the  
12    performance incentive plan but the bonus plan from the  
13    Citgo website.

14          Q     Can you identify where the different sheets  
15    between duties and conduct?

16          A     It does not that I can see.  It does not  
17    differentiate that I can see.

18          Q     This is a true and accurate copy of the 2014  
19    performance incentive plan for salaried employees?

20          A     It appears to be.

21          Q     And this is the plan that would be applicable  
22    to Mr. Arias for 2014?

23          A     Yes.

24          Q     Can you identify within this document what

1 provision there is for not providing a bonus under the  
2 circumstances that you described?

3 MR. GRAY: For the record, you didn't give me  
4 a copy again but this has --

5 MR. FRADIN: I handed you the copy.

6 MR. GRAY: That's for the witness. How can he  
7 -- it's a 35-page document.

8 THE WITNESS: Yeah. It would be pages 23 at  
9 the bottom and page 24 at the top identifies how the  
10 calculation for each individual's incentive award is  
11 modified by the factor associated with their individual  
12 performance during the plan year. And that carries from  
13 the bottom of page 23 to the top of page 24 where it  
14 actually has a table that shows if your EDP rating was a  
15 one then your bonus modifier can be between 120 and 130  
16 percent. If it's an EDP-4, it could be between zero  
17 percent and 40 percent. And then it goes on to show the  
18 formula.

19 BY MR. FRADIN:

20 Q You testified earlier that in terms of the job  
21 duties in the job description match the form there were  
22 no complaints about Mr. Arias in 2014, correct?

23 MR. GRAY: Objection, form.

24 THE WITNESS: I did not recall any



1 conversations about the specific seven job duties shown  
2 in the job description.

3 BY MR. FRADIN:

4 Q Yet, it's your testimony that he received a  
5 zero rating for performance, is that correct?

6 A Yes.

7 Q Don't you see where that would conflict with  
8 the -- having no complaints regarding his job duties?

9 A No.

10 MR. GRAY: Objection.

11 THE WITNESS: No, I don't see that because I  
12 explained before that the job duties are the what you  
13 do, the expectations of behavior are the how you do  
14 them, and his behavior was obviously bad enough to have  
15 his overall ranking drop to an EDP-4 level, which allows  
16 you to get zero to 40 percent, which is what happened.

17 BY MR. FRADIN:

18 Q Now, EDP-4 rating, it is 40 percent. You see  
19 that?

20 A No, on page 24 it's individual performance  
21 modifier. The range is zero to 40 percent.

22 Q Why is it 40 percent on page 23?

23 A That's how the incentive pool is determined,  
24 which means to give a department an amount of money to

1 distribute among their employees they will take their  
2 distribution and say, if you have two EDP-1's -- that  
3 allowed -- now the amount of money you have is equal to  
4 130 percent of those -- that bonus. That bonus piece of  
5 the pie. If you have an EDP-3 they allow you to  
6 multiply to say -- if you just did a whatever -- easy  
7 way to do it, mid-range of each employee, here's the  
8 amount of money you have to distribute. They have to do  
9 something so they know how much money to give you but  
10 then you could distribute it accordingly as long as you  
11 stay within the ranges.

12           Whereas if you had two employees very close to  
13 each other but one wound up an EDP-1 and one was a 2,  
14 and you wanted them to get very similar bonuses you  
15 could -- because you had a bonus pool of money say I'm  
16 giving this guy the top range in the EDP-2 at a 125  
17 percent and I'm only going to give the EDP-1 125 percent  
18 because they were very, very close and it was splitting  
19 hairs on how I ranked them. So therefore I'm using the  
20 money accordingly.

21           So this is strictly -- to define -- decide how  
22 much money is given to each department. Where this is  
23 for you to stay within a range to say based on their  
24 rating this is what you can give somebody.

1           Q     So the 40 percent that was allocated for Dino  
2 was given to somebody else?

3                   MR. GRAY:  Objection, form.

4                   THE WITNESS:  It was not allocated to Dino.  
5 It was allocated in the calculation for part of the pool  
6 -- it's not allocated -- it's not allocated until you  
7 allocate it.

8 BY MR. FRADIN:

9           Q     So who gave him the EDP rating of 4?

10                   MR. GRAY:  Objection, asked and answered.

11                   THE WITNESS:  Casey.

12 BY MR. FRADIN:

13           Q     Casey gave him a rating of 4?

14           A     Yep.

15           Q     And so under Section 7, that would mean that  
16 the incentive pool, individual performance modifier is  
17 40 percent, correct?

18           A     That would -- yeah -- that would mean that the  
19 -- there would have been that much money available in  
20 Casey's department pool.

21           Q     For Dino, correct?

22           A     No, for distribution among his whole  
23 department.  They just need to have a way to decide how  
24 much money you have to distribute so that's the way they

1 do it.

2 Q Well --

3 A But the pool is not distributed until Casey  
4 first looks at it, I look at, the division managers look  
5 at it, and the plant manager looks at it.

6 Q So let me step back. The 40 percent based on  
7 EDP rating of 4, that's with respect to Dino, correct?

8 MR. GRAY: Objection, form, foundation.  
9 Misstates the testimony.

10 THE WITNESS: Yeah.

11 MR. FRADIN: So --

12 MR. GRAY: Wait, you need to answer the  
13 question.

14 THE WITNESS: If Dino was the only EDP-4 that  
15 Casey had that year then a 40 percent multiplier would  
16 have been based on Dino's salary that's correct.

17 BY MR. FRADIN:

18 Q Was there another EDP-4 that year?

19 A I am not sure. I don't think so but there's  
20 been other EDP-4's.

21 Q So, just so I understand the difference  
22 between Section 7 and Section 8. You're saying that the  
23 40 percent is available for individuals with a EDP  
24 rating of 4 and then after that there's a second step

1 where the -- that 40 percent can be distributed or it  
2 can't be distributed?

3 A They -- they have to have a means to decide  
4 how much money is going to be made available based on  
5 the ratings so that you can distribute it. If they only  
6 went by a mid-range number or whatever you would almost,  
7 by the math, be forced to say everybody is only going to  
8 get this. So this is the means they use to determine  
9 what pool of money. That's why it's called a pool.

10 Q But if there's nobody else with an EDP rating  
11 of 4 then what happened to that 40 percent that was  
12 allocated?

13 A It would have got allocated to somebody.

14 Q To who?

15 A I don't know -- somebody -- Casey would  
16 allocate some, I would allocate some, because I have --  
17 Casey has a pool that is a subset of my overall pool  
18 so --

19 Q So even the EDP rating of 4, that 40 percent  
20 -- that was allocated to people other than Dino?

21 A Correct.

22 Q But the initial allocation of the EDP rating  
23 of 4, excuse me, the only person who was allocated or  
24 identified as EDP rating 4, that 40 percent initially

1 was allocated for Dino, correct?

2           A     No. It was used in the math to determine the  
3 pool. It's not allocated to anybody. It's simply a  
4 math exercise for them to say you have 15 people in your  
5 department, three are EDP-1's, so many are EDP-2's,  
6 therefore, we do this calculation and you have this much  
7 money to distribute. And then you can distribute that  
8 as long as you stay within these ranges on the top of  
9 page 24. But it's not allocated -- they just simply  
10 tell you -- here's the amount of money you have for your  
11 overall department.

12           Q     It says here that each manager will be  
13 informed of the total amount of the incentive pool for  
14 the groups within his or her area of responsibility,  
15 correct? You see that on page 23?

16           A     Correct.

17           Q     So if nobody else is within that group of EDP  
18 rating 4, why didn't Dino get that money?

19                   MR. GRAY: Objection, form.

20                   THE WITNESS: It's because his performance  
21 warranted no bonus.

22 BY MR. FRADIN:

23           Q     But even within this incentive bonus program  
24 he was given a rating that warranted a 40 percent bonus,

1 correct?

2           A     No, that warranted anywhere from zero to 40  
3 percent.

4           Q     And that's the EDP rating that Casey you said  
5 gave him, right? The EDP rating of 4?

6           A     Yes.

7           Q     And then Casey was then given the direction of  
8 what to do with that money?

9                     MR. GRAY: Objection, from.

10                    THE WITNESS: As I explained before, Casey  
11 gets the first input. Then I will see all the input and  
12 get to decide if I'm okay with it or if I want to  
13 allocate funds differently. Then that will go and be  
14 discussed with other division managers as well before  
15 the final plan is made but Casey does get the first  
16 opportunity to look. I did not disagree with his zero  
17 rating.

18 BY MR. FRADIN:

19           Q     Do you have documentation indicating where  
20 that payment was made to?

21                     MR. GRAY: Objection, form.

22                    THE WITNESS: There was nothing that would  
23 break up that 40 percent. There would be a pool of  
24 money for all of Casey's department and all of my

1 division and there would be a document that shows who  
2 got what money but there's nothing that says there was a  
3 40 percent share broken up and given to somebody else.  
4 It will simply say employee A received this amount,  
5 which is this percent. Employee B received this.  
6 There's nothing that says I broke up a certain fraction  
7 of the pool to give. It just says I spent the pool.

8 BY MR. FRADIN:

9 Q This 40 percent is identified as an incentive  
10 pool individual performance modifier, right?

11 A Yes. It's -- because that's how they do the  
12 calc based on when they have the EDP ratings for your  
13 group the individual performance modifier is what they  
14 use to do the calc for the pool of money that they give  
15 you.

16 Q How do you know that Dino had an EDP rating of  
17 4?

18 A Because I'll get that information from Casey  
19 when were' doing the EDP's. I'll get it -- I also have  
20 access to be able to look at the EDP ratings and sign  
21 off on them as they're being completed when the people  
22 are doing the performance reviews.

23 Q When's the last time you looked at it?

24 A In 2014, it would have been right around the



1 time they're due, which is toward the end of the year.

2 Q But you remember that it was 4, correct?

3 A Yes.

4 Q Did you get that in writing from Casey?

5 A It will be in the system. The system says  
6 what everybody's individual rating is.

7 Q Is that a document that you search for in --  
8 when we made the document request here?

9 A I didn't. HR -- HR has access to all that so  
10 my guess is they did but I don't --

11 Q Who in HR has access to that?

12 A You'll have to ask Dick -- or somebody -- I  
13 don't know who all does. Not many people but --

14 Q But there's no written documentation that then  
15 shows how that 40 percent is ultimately distributed?

16 A No. There would just be a final distribution  
17 of which each individual got and a spreadsheet that  
18 shows that you stayed within this range. The spread,  
19 you know, if you have somebody that was an EDP-1, you  
20 gave them a certain amount of dollars. It will show that  
21 you kept it within the 120 to 130 percent range.

22 Otherwise, there would have been questions to say you're  
23 not allowed to go outside of this range -- why is this.

24 Q Is there documentation that shows what the

1 supervisor uses to determine the EDP rating?

2       A     The EDP itself has comments and there's some  
3 parts that are open -- open lines for free comments to  
4 put in and then there's also some parts where there is  
5 pre-formatted, you know, how did this person perform in  
6 this specific area. But there -- there's an EDP  
7 document that -- that says, you know, sit down with the  
8 employee and you walk -- walk through the EDP document  
9 and say your final rating was this and both verbally  
10 tell them why and also try to document it and probably  
11 tell them more verbally than trying to document every  
12 word but there's a document.

13       Q     What's listed in the EDP document?

14       A     I don't know. I don't remember specifically  
15 what's listed in the 2014 EDP document.

16       Q     Where would the 2014 --

17       A     One of the things listed at the end is what  
18 their overall rating was.

19       Q     Do you remember any of the categories inside  
20 the EDP document?

21       A     There's goals completion or how did a person  
22 perform versus their goals. There's a section called  
23 competencies, which speaks to, you know, how well the  
24 individual communicated with other people and aspects of

1    their jobs.  You know, are they a self-starter -- are  
2    they -- I can't remember all the things -- but it's --  
3    it's -- the section is called competencies.

4           Q     Does it look a lot like the essential duties  
5    section of this master job form?

6           A     No, since it tries to assess your overall  
7    performance both on what work you do and how you do it.  
8    It's not a copy of that.  It doesn't look similar to  
9    that at all.

10          Q     Do you know why this form hasn't been  
11   disclosed yet in this litigation?

12                   MR. GRAY:  Objection, foundation.

13   BY MR. FRADIN:

14          Q     Do you have a copy of the form?

15          A     No.

16          Q     When it comes time to fill out the form where  
17   do you get it from?

18          A     It's online.  It's an online system.

19          Q     Online with Citgo employees having access to  
20   it only?

21          A     Yeah.  It's, I mean, as I think I said before  
22   the individual has access because they populate sort of  
23   a -- at the beginning of the year they put in goals,  
24   they'll put in personal goals, personal development

1 goals. They will make a self-assessment at the end of  
2 the year so they have access. Then their immediate  
3 supervisor has access because they're the ones  
4 documenting their produced performance at the end of the  
5 year.

6 Q Is it the same for everybody other than the  
7 parts that are filled out --

8 A The document is -- the document is the same.  
9 It's the same form.

10 Q And it's filled out at the beginning of every  
11 year?

12 A There's different times of the year where  
13 different things are put in. There's -- the goals and  
14 objectives are toward the beginning of the year. The  
15 overall assessment of how they performed is toward the  
16 end of the year because it's your -- the assessment of  
17 your annual performance.

18 Q Do you know what Dino's goals and objectives  
19 were for 2014?

20 A No.

21 Q Have you looked at the 2014 EDP form for Dino?

22 A Not in 30 years or four years or how ever long  
23 its been since --

24 COURT REPORTER: I can't hear you. I'm sorry.

1 THE WITNESS: Not since that year.

2 BY MR. FRADIN:

3 Q When do you do the EDP ratings?

4 A It's toward the end of the year since it's for  
5 annual performance for that year.

6 Q So who would have filled out the 2014 EDP form  
7 for Dino?

8 A Casey and Dino. Dino makes his self-  
9 assessment as well.

10 Q That's at the beginning of the year, right?

11 A At the end of the year you also have a section  
12 of the form where you can assess yourself.

13 Q What about when an employee no longer works  
14 for the company but did work for the company earlier in  
15 the year?

16 A Then it just depends on, you know, if they  
17 were there when the assessment was done they completed  
18 it. If not -- if you're not in plant you can't complete  
19 it.

20 Q Then who completes it then?

21 A That portion would be blank.

22 Q So there's never the second portion of the EDP  
23 form completed?

24 A It -- because the self-assessment portion

1 would not be completed.

2 Q Would their portions be completed?

3 A The supervisor's portion would probably be  
4 completed.

5 Q So who would have completed that form in 2014?

6 A Casey.

7 Q And what would he have done with the form?

8 A He would -- it's an in-system form so it would  
9 just -- he would just complete it and close it out or  
10 approve it.

11 COURT REPORTER: What?

12 THE WITNESS: He would complete it and just --  
13 you close it out or designate it as complete in the  
14 system and --

15 Q But you do remember seeing the form for Dino  
16 for 2014?

17 A I think I -- I either saw a form or I saw the  
18 EDP rating.

19 Q How would you see the EDP rating outside of  
20 the form?

21 A The rating -- when we're doing the ratings at  
22 the end of the year, after we discuss them, the  
23 individual's rating are all entered into a spreadsheet  
24 so that you can accumulate the spreadsheet with

1 everybody else in the facility so that there's one  
2 master spreadsheet in the end that can be delivered to  
3 corporate to say for our location here's the EDP ratings  
4 of all employees.

5 Q So going back to Section 7, when it says each  
6 manager will be informed of the total amount of the  
7 exemptive pool for the groups within his or her area of  
8 responsibility. What do you define as the group within  
9 his or her area of responsibility?

10 A Let me read this. Okay, for Casey, for  
11 example, he has safety and health. So it's essentially  
12 all of this direct reports. So he has the medical  
13 department, a nurse in the medical department. He has a  
14 industrial hygienist and a department lead for the  
15 industrial hygienist for area safety coordinators, a PSM  
16 coordinator, a contract safety coordinator. All those  
17 people would make up his group and therefore his pool of  
18 money would be based on their EDP ratings.

19 Q Okay. So somebody within that group received  
20 that 40 percent that was initially allocated based on  
21 the EDP rating of 4 for Dino?

22 MR. GRAY: Objection, form, foundation. Asked  
23 and answered. Misstates the testimony.

24 THE WITNESS: It was not allocated for Dino.

1 It was allocated for somebody in that group or somebody  
2 anywhere else in the refinery. I don't know exactly how  
3 the distribution ended up because sometimes you can't  
4 distribute the money or you run out of distribution  
5 before you run out of money and therefore that money is  
6 available to distribute another departments.

7 BY MR. FRADIN:

8 Q Now, in Section 8-B, discusses that the  
9 president and chief executive officers of Citgo will  
10 approve the individual performance modifiers to be  
11 applied in the incentive award calculations for all  
12 reporting officers in -- presume it's above Salary Band  
13 5. What is Salary Band 5?

14 MR. GRAY: Just to reflect, he's having  
15 trouble finding where you're reading from. Can you say  
16 the page, is that --

17 MR. FRADIN: Yes, page 24.

18 THE WITNESS: Above five, that would be the  
19 plant managers and above.

20 BY MR. FRADIN:

21 Q Where are the salary bands identified?

22 A I don't know -- not in this document. This  
23 document just refers if you are salary band something or  
24 HR would know if there's a list somewhere that



1 identifies salary bands different positions are.

2 COURT REPORTER: Is that b-a-n-d, band?

3 THE WITNESS: Band, yeah, b-a-n-d.

4 BY MR. FRADIN:

5 Q Was Dino Salary Band 5 or above in 2014?

6 A No.

7 Q Okay. All right. Take a look at what's  
8 identified as Exhibit H for identification.

9 MR. GRAY: I should keep a copy of --

10 MR. FRADIN: We'll do that after the next  
11 deposition.

12 MR. GRAY: I'll keep it for the next one. I  
13 won't give it away.

14 MR. FRADIN: Well -- and actually you don't  
15 get copy of the exhibits generally. That's not  
16 something that's typical that you take the exhibits with  
17 you. That's not --

18 MR. GRAY: Well, not the original exhibits.

19 MR. FRADIN: Well -- well -- I need to get  
20 them back and then we'll deal with it after the next  
21 exhibit -- next deposition -- but right now -- so I  
22 don't have to print them out again -- next deposition.

23 MR. GRAY: Well, you're handling the next  
24 deposition.

1                   MR. FRADIN: I'm keeping a hold of them until  
2 then.

3                   MR. GRAY: This would be the first deposition  
4 in my 30 years. So you're giving exhibits to the  
5 witness and you're refusing to give them to me.

6                   MR. FRADIN: I'm giving them to you. You can  
7 look at them but once you're done you give them back to  
8 me, yeah.

9                   MR. GRAY: Okay, that's not the way of the  
10 next deposition?

11                  MR. FRADIN: So we can use them in the next  
12 deposition. Unless you want to take an hour and we'll  
13 print them out again but in order to have this --

14                  MR. GRAY: You're giving me and the witness --  
15 you're giving him group exhibits of 50 pages each in a  
16 blatant attempt to confuse people, okay.

17                  MR. FRADIN: That's not intended --

18                  MR. GRAY: Look -- you give him 50 pages --  
19 you won't let me look at it so the record's clear.

20                  MR. FRADIN: I've giving them to you.

21                  MR. GRAY: No -- just so we're clear. Okay?  
22 Are you -- let's make sure the record's correct here.  
23 Are you giving a copy to me, the lawyer, and to the  
24 witness?

1           MR. FRADIN: I'm giving you one copy for both  
2 you guys to take a look at. If you want to look at  
3 another copy -- you can look at the other copy but I  
4 would like them back for the next deposition.

5           MR. GRAY: But the record's unclear as to what  
6 you're giving the witnesses. You've grouped together  
7 non-sequential documents, not let the witness look at  
8 them in full, and you're not letting me look at them.

9           MR. FRADIN: You're now free to look at them  
10 right now.

11          MR. GRAY: But -- okay -- you just took my  
12 copy from me. You physically just took my copy from me.

13          MR. FRADIN: That wasn't the document that we  
14 were just looking at for the last --

15          MR. GRAY: You reached over to my pile and  
16 took my copy from me. Can we get this on the record,  
17 okay? You just took my copy -- like in some physical  
18 show of aggression you're taking my document.

19          MR. FRADIN: Physical show of aggression?

20          MR. GRAY: Yeah, that was my copy. What am I  
21 -- what am I now going to get in a fight to take the  
22 document back? That's not the way it works.

23          MR. FRADIN: These are the exhibits for the  
24 deposition. They're going to go to the court reporter.

1     You'll get a copy of them in the transcript.

2             MR. GRAY: This is already a mess. You have a  
3     -- you have no record of this. You have grouped  
4     together things in an attempt to try to get testimony  
5     that is inaccurate and now -- and the first time in my  
6     career you won't let me see a copy. I don't understand.  
7     And then you give me a copy -- you gave me a copy --

8             MR. FRADIN: Now you're delaying -- you're  
9     just trying to delay so that we don't have time to do  
10    the next deposition is what you're trying to do.

11            MR. GRAY: I mean, that is so foolish. I  
12    don't know how to respond to that. Okay, I will take a  
13    look at this and make sure that it's fair. But much  
14    like the last one, they're cobbled together ones and you  
15    don't want me to look at it.

16            MR. FRADIN: You look at it. You're looking  
17    at it right now. You're trying to be difficult. You're  
18    trying to create a record that's false. That's all  
19    you're trying to do. I appreciate that you're an  
20    experienced --

21            MR. GRAY: Wait, so that's in your normal --  
22    in your normal depositions you don't give a copy to  
23    opposing counsel?

24            MR. FRADIN: I do. You're looking at it in

1 your hands right now.

2 MR. GRAY: No, no, no. Now the witness isn't  
3 able to look at it at the same time. So you're making  
4 us looking at the sequentially --

5 MR. FRADIN: Will you give it back to me when  
6 I'm done so that we can use it for the second  
7 deposition?

8 MR. GRAY: Why do I have to give it back to  
9 you to use it for the second deposition. Why can't I  
10 look at it and continue to look at it between now and  
11 the deposition. These are huge documents.

12 MR. FRADIN: Because that's not how  
13 depositions work. It's my deposition. I get to show  
14 documents to witnesses as I show it to them. It's not  
15 for you to show it to your witness in between  
16 depositions. That's not appropriate.

17 MR. GRAY: I didn't say I was showing anything  
18 to a witness.

19 MR. FRADIN: That's what your intention is to  
20 do, sure. You're witnesses are clearly very well  
21 coached. And I have an opportunity to take a second  
22 deposition to use the same exhibits without you coaching  
23 them in between.

24 MR. GRAY: Listen, your next exhibit has

1 cobbled together -- you called it H-1 but H-15, H-36 is  
2 in here. H-23 is in here. I mean, you're making your  
3 deposition a joke. You're making it a joke. We'll deal  
4 with it with the Judge later.

5           You've said this is H-1. What you've just  
6 gave him is -- now that I'm able to look at what you  
7 gave the witness isn't H-1. It's a bunch of other stuff  
8 that you've cobbled together and you won't let him look  
9 through it. It's ridiculous.

10           MR. FRADIN: He's looking at it right now.

11           MR. GRAY: It's ridiculous.

12           MR. FRADIN: Take a look at what's marked as  
13 H-1 and then --

14           MR. GRAY: It's not marked as H-1, Mr. Fradin.  
15 I want to make sure this is correct. You've got --  
16 let's be clear. You've got H-1 in here. You've given  
17 him H-6.

18           MR. FRADIN: All right, well, we'll take out  
19 H-6 for now.

20           MR. GRAY: You've given him H-23. You've  
21 given him H-15. You've given him H-37.

22           MR. FRADIN: Now that's -- H-1, which is --

23           MR. GRAY: Okay. So now you're saying do not  
24 look at the rest of the documents he's given you. He's

1 directing you to only look at H-1.

2 THE WITNESS: Okay, I've looked at it.

3 MR. GRAY: He's only looking at --

4 BY MR. FRADIN:

5 Q Can you identify it?

6 A This is a safety complaint letter dated May  
7 13th, 2013, that an employee of Citgo sent to OSHA.

8 Q Have you seen this document before?

9 A Yes.

10 Q Is this related to the OSHA hearing that you  
11 discussed earlier?

12 A No.

13 Q Okay. The OSHA hearing was also in 2013,  
14 correct?

15 A The -- I'm not sure if the hearing was but the  
16 investigation that they did that later resulted in a  
17 hearing occurred in 2013.

18 Q Do you know why nothing for the other hearing  
19 or investigation was provided by Citgo in this  
20 litigation?

21 A No.

22 Q Do you have an independent recollection of  
23 this complaint?

24 A Do you have the -- that's so broad -- do you

1 have a precise question what --

2 Q Do you -- other than me showing you this  
3 document right now, do you recall this complaint having  
4 been made?

5 A Yes.

6 Q Do you recall the outcome of the complaint?

7 A Yeah. In the end OSHA did not have a finding.  
8 We signed an informal agreement with them related to the  
9 one aspect of the complaint that they were really  
10 focused on was the coke drums. So we had an informal  
11 agreement that we signed with them to get an additional  
12 third-party to look at work that was done by Citgo and  
13 make a determination if we needed to change any of our  
14 inspection plans. That was the final outcome.

15 Q Do you know who made this complaint initially?

16 A Yes.

17 Q Who?

18 A A guy named Dave Handkins.

19 Q How do you know that?

20 A Because OSHA left his name on a document that  
21 our PSM coordinator observed during some of the meetings  
22 with OSHA.

23 Q Does Dave Handkins work for Citgo now?

24 A No.



1 Q What happened to Dave Handkins?

2 A I believe he was terminated.

3 Q What was the reason given for Dave Handkins  
4 termination?

5 MR. GRAY: Objection, foundation.

6 THE WITNESS: I need to answer though,  
7 correct?

8 MR. GRAY: If you know, yeah.

9 THE WITNESS: I'm not sure it's the only  
10 reason but I know it was related to lying in an  
11 investigation -- a safety investigation in an incident  
12 that he was involved in.

13 BY MR. FRADIN:

14 Q What was the nature of the safety  
15 investigation?

16 A I don't remember graphic details but it had to  
17 do with inappropriate permitting an authorization for  
18 work in an area that he was the responsible operator  
19 for.

20 Q What was Dave Handkins position?

21 A He was a chief operator. It's on our north  
22 plant area of the facility.

23 COURT REPORTER: Can you speak a little  
24 louder. Thank you.

1 THE WITNESS: It was in our north plant area.

2 BY MR. FRADIN:

3 Q Do you know how to spell -- how do you spell  
4 Handkins.

5 A I'm not sure. A shot, it might be Handkins,  
6 H-a-n-d-k-i-n-s. I'm not sure.

7 Q Do you know where Dave works now?

8 A No.

9 Q Do you know where Dave lives?

10 A No.

11 Q How old is Dave?

12 A I don't know. I'd be guessing.

13 Q Well, guess.

14 A Fifty-ish.

15 Q So in 2013, OSHA was investigating Dave  
16 Handkins' complaint, correct?

17 A Correct.

18 Q But they were also investigating a additional  
19 complaint, correct?

20 A Not an additional complaint that I know of.

21 Q The hearing that you went to in or around  
22 2013, who initiated that complaint?

23 A There wasn't a complaint. There was a fire  
24 incident so they came in on their own.

1           Q     Are you aware that Casey Bullock told Dino not  
2 to talk with OSHA when they were on the premises?

3                   MR. GRAY:  Objection, form, foundation.  
4 Misstates the evidence.

5                   THE WITNESS:  Nope, I'm not aware of any such  
6 direction.

7 BY MR. FRADIN:

8           Q     Did Casey ever talk to you about OSHA being on  
9 the facility's premise?

10          A     Related to --

11          Q     Related to either the hearing that you  
12 referred to earlier or the complaint?

13          A     Yes.

14          Q     What was the nature of those conversations?

15          A     Well, when OSHA comes in, I am generally very  
16 closely involved.  Casey would be closely involved  
17 because he's the Manager of Health and Safety and Ray  
18 Boutte so anytime OSHA would be in, we would all three  
19 be heavily involved in discussing status and what OSHA's  
20 information requests were -- what we've given them so  
21 far.  Conversations when OSHA was going to be or when  
22 they planning on leaving and coming back.  I would even  
23 be in some of the meetings with OSHA, so --

24          Q     Well, were you aware that Dino asked Casey

1 Bullock to speak -- strike that.

2 Were you aware that Dino asked Casey Bullock  
3 if he could go to discuss with Roger Evans in person  
4 regarding safety violations at Citgo?

5 MR. GRAY: Objection, form, foundation.  
6 Misstates the evidence.

7 THE WITNESS: I don't think Roger Evans --

8 COURT REPORTER: Pardon?

9 THE WITNESS: I don't think that Roger Evans  
10 works for OSHA. Aren't we talking about OSHA?

11 Q We're talking about the Chemical Safety Board  
12 at this point.

13 MR. GRAY: Same objections if the question is  
14 still pending.

15 THE WITNESS: I'm not aware that there was any  
16 discussion or request to go speak to Roger Evans.

17 BY MR. FRADIN:

18 Q Would you expect -- if there was such a  
19 request that Casey Bullock would bring that to you?

20 A Oh, yeah.

21 Q Why?

22 A Because somebody needs a requesting to go  
23 speak to an outside agency. I would know that all the  
24 time. I would be expected to know that.

1           Q     Are you aware of the leaks in the FCC unit in  
2 around 2012 to 2015?

3           A     Yes.

4           Q     What was the nature of those leaks?

5           A     There -- I'm not sure of all the leaks but I  
6 know there were leaks on the FCC reactor head that  
7 required several repairs during that timeframe.

8           Q     Are you aware if Roger Evans wanted to  
9 investigate those leaks?

10          A     No.

11          Q     Are you aware of OSHA wanting to investigate  
12 those leaks?

13          A     One of the items in OSHA's complaint that they  
14 investigated related to the FCC.

15          Q     What's the danger of the leaking FCC had?

16          A     There's no danger as long as you shut down and  
17 do the maintenance. Danger, I mean, all leaks require  
18 you to be, you know, approach them safely. Make a  
19 determination whether they can be addressed without  
20 shutting down a unit or not. And if you have to shut  
21 down a unit then you shut down the unit per your  
22 established procedures, isolate and make the repairs,  
23 and when the repairs are inspected and satisfactory, you  
24 come up.

1           Q     Would it be against public policy for Citgo  
2 supervisors to tell their employees not to talk with  
3 OSHA?

4                   MR. GRAY:  Objection, form, foundation.

5                   THE WITNESS:  Yeah, everyone has the right to  
6 talk to OSHA.

7 BY MR. FRADIN:

8           Q     So you agree that if Casey Bullock were to  
9 tell Dino not to speak with OSHA while they're there  
10 that would violate public policy?

11          A     It seems like speculation but I think nobody  
12 -- everyone has a right to speak to OSHA.  Nobody is  
13 ever restricted in the -- I don't know how you can  
14 restrict them.

15          Q     If he were to tell him that he would be fired  
16 if he spoke to OSHA would that be a restriction that you  
17 would endorse?

18          A     No.

19          Q     Why?

20          A     Because everybody has the right to speak to  
21 OSHA.

22          Q     Did you ever tell Casey Bullock to tell  
23 employees not to speak with OSHA?

24          A     No.

1           Q     Did you ever tell Casey Bullock any sort of  
2     directions to give the employees when OSHA was  
3     investigating?

4           A     No. I mean, if OSHA -- when OSHA comes in,  
5     like on this, they will tell us who they want to talk  
6     to. We will make sure we get the meetings organized and  
7     get the employees to them and one of the instructions is  
8     always given is -- they ask you question give them --  
9     give them the answers.

10                   They make a request for information, you know,  
11     most of the -- they'll talk to operators. They'll talk  
12     to craftsmen and we always make sure that they get  
13     access to whoever they want access to. They always ask  
14     for a union rep in addition. When they first come in  
15     they explain what they're there for. They'll ask for  
16     one of the members of the -- one of the elected members  
17     of the Union's Workmens' Committee. We make sure they  
18     get access to that individual.

19           Q     What about the Chemical Safety Board. Do you  
20     make sure they have access as well?

21           A     The -- to my knowledge the Chemical Safety  
22     Board -- they're like a different entity. They've never  
23     come in to ask for talking to anybody or -- they come  
24     into facilities if there's an event that they're

1 investigating. They don't come in like OSHA to do spot  
2 audits or follow-up on complaints. That's not their  
3 responsibility. Their responsibility, to my  
4 understanding, is to follow-up on incident  
5 investigations and investigate due cause analysis and  
6 publish their findings. But they're not -- they're not  
7 like OSHA. They're repeating where they're the  
8 regulating body.

9 Q Then what are they if they're not a regulating  
10 body?

11 A They are an appointed group and to my  
12 knowledge they basically investigate when there's a  
13 significant incident that happened somewhere they go in  
14 and investigate and do root cause analysis and then  
15 publish and communicate their findings.

16 Q But you agree that they're a government  
17 agency, correct?

18 A Yes.

19 Q Okay. And you agree that they're a government  
20 agency that is involved with safety and public policy,  
21 correct?

22 A I don't know public policy. I know they  
23 investigate incidents.

24 Q Okay. And do you know that Roger Evans was



1 requesting information from Citgo in 2013, correct?

2 A That one document showed that they asked for  
3 specific information on two events in Citgo and we  
4 provided it.

5 Q So what did you provide in response?

6 A There were two -- boy -- if I had that  
7 document I could tell you better but there were two  
8 events they asked for information on.

9 One event was the vacuum area fire that  
10 happened in late October and we provided them the root  
11 cause failure analysis investigation report to that  
12 incident, which had already previously been provided to  
13 OSHA and Illinois EPA.

14 They had asked for a second incident which  
15 turned out to just be a flaring event so we communicated  
16 back to them that there's not -- this is a flaring event  
17 and we weren't going to provide any information because  
18 it wasn't an incident of the type that they were looking  
19 for.

20 Q But to your recollection you didn't provide  
21 anything in response to their -- to Dino and Roger's  
22 request for providing information regarding the 1984  
23 fire, correct?

24 A Yeah. That thing they asked about Unical I

1 didn't provide it.

2 COURT REPORTER: Say what?

3 THE WITNESS: The thing they asked about  
4 Unical -- I -- we didn't provide anything in it. And  
5 that one -- that one was the request that came through  
6 an e-mail to Dino. But they have nothing -- nothing to  
7 my knowledge got provided on that and nor did they ever  
8 ask again.

9 MR. FRADIN: I don't have any additional  
10 questions.

11 MR. GRAY: I don't have any questions. So  
12 we're off the record.

13 COURT REPORTER: Signature reserved?

14 MR. GRAY: Yes, signature reserved.

15 (Witness excused.)

16 (AND FURTHER DEPONENT SAITH NOT.)

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1 STATE OF ILLINOIS     )  
2                                     ) SS.  
3 COUNTY OF COOK         )

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5           I, HOWARD N. REISMAN, a Certified Shorthand  
6 Reporter of the State of Illinois, CSR License No. 084-  
7 000411, do hereby certify that heretofore, to-wit, on  
8 July 26, 2018, JAMES TANCREDI, personally appeared  
9 before me at 8401 Crawford Avenue, Suite 104, Skokie,  
10 Illinois;

11           That previous to the commencement of the  
12 examination of the witness, the witness was duly sworn  
13 to testify the whole truth concerning the matters  
14 herein;

15           That the foregoing deposition transcript was  
16 stenographically reported by me and was thereafter  
17 reduced to writing by means of shorthand and afterwards  
18 transcribed under my personal direction and that this  
19 constitutes a true and accurate record of the testimony  
20 given and the proceedings held at the aforesaid date,  
21 time, and place;

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11 Illinois License No. 084-000411

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1 STATE OF ILLINOIS       )  
2                               ) SS.  
3 COUNTY OF COOK           )  
4                   IN THE UNITED STATES DISTRICT COURT  
5                   FOR THE NORTHERN DISTRICT OF ILLINOIS  
6                               EASTERN DIVISION  
7 ARMANDO ARIAS,                        )  
8                   Plaintiff,                        )  
9               vs.                                ) No. 1:17-ev-08897  
10 CITGO PETROLEUM CORPORATION, )  
11 et al.,                                )  
12                   Defendant.                        )  
13               This is to certify that I have read the  
14 transcript of my deposition taken in the above-entitled  
15 cause and that the foregoing transcript, with the  
16 corrections indicated, accurately states the questions  
17 asked of me and the answers given by me.  
18  
19    \_\_\_\_\_  
  JAMES TANCREDI  
20 SUBSCRIBED AND SWORN TO  
21 before me this \_\_\_\_\_ day  
22 of \_\_\_\_\_, 20\_\_.  
23    \_\_\_\_\_  
24                   Notary Public